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# THE LEAGUE OF NATIONS IN THEORY AND PRACTICE





# THE LEAGUE OF NATIONS IN THEORY AND PRACTICE

*by*

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WITH SOME CHAPTERS ON INTERNATIONAL  
CO-OPERATION

*by*

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TO  
BARON DAVIES OF LLANDINAM  
A FIGHTER FOR PEACE

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## P R E F A C E

THE Secretariat of the League of Nations has itself published an account of the activities of the League which is a model of accuracy and concise phrasing. Such accounts need supplementing by those of others who are entirely free to express opinions and criticisms. This book was written at the suggestion of the British National Committee on Intellectual Co-operation for this purpose. I am, however, entirely responsible for the presentation of the facts and opinions in it. I have endeavoured to give an impartial account of the origin and growth of the League of Nations, but I have not attempted to conceal my own point of view, which owing to considerations of space has sometimes had to be expressed more dogmatically than I should have liked.

My friend and colleague at Aberystwyth, Mr. Sydney Herbert, has written the chapters on International Co-operation, a subject which he has long studied and taught. Without his collaboration the book could scarcely have been finished, for the activities of the League are now so manifold that it is almost impossible for one person to master all the documentary evidence. He has written chapters XIII-XVIII, but for the rest of the book I am solely responsible.

I am deeply grateful to Professor J. L. Brierly, who was good enough to read the proofs of the first three Parts, and to give me invaluable advice. Miss Morris, Secretary of the Department of International Politics at Aberystwyth, assisted me in technical details.

During many visits to Geneva I have had the opportunity of discussing the topics here presented with officials of the Secretariat, delegates from various countries, experts and journalists. During the last ten years I have also travelled extensively in Europe, Asia, and America, and have thus, I trust, been able to correct impressions received at Geneva.

The text of the Covenant has not been included since it can be obtained for a trifling sum and is more convenient in separate form. In the *Suggestions for Further Study* attention has been drawn to books and documents which experience seems to show are stimulating and helpful.

This study was only made possible by the fact that for ten years I held the Wilson Chair of International Politics at Aberystwyth, and I have ventured to dedicate the book to its principal founder, for whose friendship I am profoundly grateful and for whose work for international peace I have the greatest admiration.

C. K. W.

LONDON

*December, 1932*

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**PART I**

**THE FOUNDING OF THE LEAGUE**





# CHAPTER I

## THE ELEMENTS OF INTERNATIONAL ORGANIZATION BEFORE 1914

History to me was one and could know no commencements,  
yet in the development of a concerted action of the Powers  
I found 1814 so convenient a starting-point as to be as good  
as a real beginning.

SIR CHARLES DILKE, 1878

THE principles upon which the League of Nations is based are not new. They have been part of the content of the aspirations of humanity for a long period. The great empires of the ancient world were considered as embracing all civilized peoples in one law and government. Many religions have stressed the interdependence of all adherents, whatever their race or nationality. Christianity, especially, considered all believers as in a sense members of one body and in theory recognized no division of colour or clime. The idea of world unity, even if it did not include the further parts of Asia with which only uncertain contacts could be maintained, extended to all Europe and the lands surrounding the Mediterranean. While war and conquest were not abolished, the theory if not the practice of common institutions was maintained between all members of the Christian civilization.

This unity was broken by the division of the Church into East and West and by the disorders in the Western Church itself. It was completely disrupted by the Reformation, the rise of national states, and the extension of European sovereignty over the New World and large parts of the East. There was no longer any common institution to which all gave theoretical allegiance. The new members of the body politic, the national states, were in a sense as much in a state of nature towards each other as human communities at the dawn of

history. But this condition was intolerable both in theory and in practice. The philosophers and publicists soon tried to discover the basis of laws which should control the intercourse of states. Some, indeed, dreamed of an organization which should include them all and restrain them from war. This aspiration never became anything else, but as the contacts of peoples became more systematic with the growth of travel, customs established themselves for the regulation of their intercourse, and these were analysed and justified by legalists and philosophers. Thus a body of what was later called "international law" grew up, partly concerned with mitigating the nuisance of war, partly with regulating the rights of one state over the subjects and ships of other states which came within its jurisdiction for the purposes of commerce. There was no common organ of government, since both Pope and Emperor no longer commanded authority. States, however, began to keep permanent representatives at the seat of sovereignty of their principal neighbours. Agreements between them in the form of treaties multiplied, and sometimes these were multi-lateral and dealt with permanent problems. But down to the end of the eighteenth century contacts between states were after all but few, and affected generally only a small part of the inhabitants of each. War, though frequent, was an evil which could be fairly easily endured since the resources of a state did not permit very large armies, and weapons were limited in power. Only a great upheaval, such as the Thirty Years War, caused permanent devastation. Thus states, in spite of the suggestions of the few dreamers who sketched constitutions for some form of international government, remained without any means of expressing their common interests. Only after some great war did the representatives of a number of states meet together to formulate a treaty of peace, which was concerned almost exclusively with frontiers and indemnities, the transference of territory or the payment of compensation.

But the Industrial Revolution and the French Revolution

transformed the relations between states. The former meant not only the growth of wealth and the population, but also a revolution in transport and communication, which has proceeded with ever-increasing rapidity until our own day. The relations between the state and the subject were changed, and the power of the former was immensely increased. The idea of nationality, born hundreds of years before, was also much strengthened as the state became stronger, the unit of government larger, and the contacts between people of different race and language more important. During the Revolutionary and Napoleonic period the art of warfare was transformed and the methods discovered by which great armies could be kept in being for long periods. Force could be concentrated and used as never before. Ideas spread with unexampled speed. The map of Europe was rearranged far more completely and far more rapidly than at any other period. A combination of all the other principal states of Europe, financed and assisted with men and sea power by Britain, was necessary to overthrow the Napoleonic Empire, which had been the first state able to utilize the new administrative and military organizations because it was the home of the Revolution and commanded the genius of Napoleon himself.

In the course of the struggle a new distinction between states was first consciously recognized—that between Great and small Powers. Inequalities had, of course, always been in existence, but it was only after the new control over the resources of the state had made the difference in military strength so marked that the term "Great Powers" arose. By the end of the Napoleonic wars these had attained so commanding a position that they took the reconstruction of Europe into their own hands. The smaller Powers were excluded from their deliberations, and were forced to accept the decisions made by the Great.

At the same time, all Europe had been a battleground. It had attained a unity never before experienced. At the height

of the Empire there was a real control over all its parts from Madrid to Warsaw. Its army had become international. Napoleon marched Spaniards and Italians to Moscow, while when the great coalition at last reached its goal, Cossacks, Germans, and Hungarians stabled their horses in the *Champs Élysées* of Paris. The settlement of 1814-15 was a more complete reorganization of Europe than it had ever before experienced. Based on the Balance of Power, it recognized the universal interest of all European states, including Britain, in the whole. It was indeed seriously proposed that every European state should guarantee the new order and promise to repress, by force of arms, any attempt to disturb the territorial settlement. Though this device was abandoned, largely through the reluctance of Britain, which had first supported it, the fact that every state in Europe signed the Treaty of Vienna gave each rights in sustaining the whole settlement.

It should be noted, however, that this unity stopped short at Europe. The world settlement which accompanied the Congress of Vienna was dictated by Britain and enshrined in separate treaties between her and the other continental states. She also kept quite separate her struggle with the United States. Britain was part of Europe and as such had rights to full participation in European affairs, but continental Powers had not the same rights in maritime affairs. Europe, moreover, stopped short at the Balkans, and the Ottoman Empire remained outside it until the Crimean War.

The Congress of Vienna had even discussed some of the great problems which needed international action for their solution. Owing to the pressure of British public opinion, the slave trade was condemned and the rudiments of an organization for its suppression established. Rules were laid down for the navigation of international rivers. The emancipation of the Jews was discussed as a European problem. The rules of diplomatic precedence were overhauled and modernized. There was a conscious recognition of the interdependence of European states.

To all this was added a great experiment in international organization—the European Alliance. The last coalition against Napoleon had developed into an alliance of the four Great Powers to safeguard the peace. The sovereigns and statesmen had continually met together round the council table. It occurred to one of them, Castlereagh, the British Foreign Minister, that the system of diplomacy by conference was one as suitable for peace as for war. He inserted this idea in the Treaty of Alliance against France, and when the problems of reparation and occupation had been settled in the three years that followed the peace, France was invited to take part in the system, and all the Great Powers were thus pledged to meet together when necessity arose to discuss the common problems of Europe and reconcile their interests one with the other.

This great conception, which might have revolutionized the relations of the Powers towards each other had it been given a fair trial, was unfortunately handicapped at the outset by two difficulties which it never overcame. The Tsar, Alexander I, had also brought into being the Treaty of Holy Alliance which, though it was merely a declaration that the sovereigns of Europe would act towards one another as Christians, confused and disturbed public opinion as regards the more practical system advocated by Castlereagh. Moreover, when revolution again threatened Europe, Metternich, the Austrian Chancellor, and Alexander wished to use the system of conferences to combine the Great Powers together in putting it down. This meant interference in the internal concerns of other states, threw liberal opinion against the Alliance, and gave British statesmen who wished to resume their complete independence of Europe the chance to escape from its obligations. Castlereagh had planned to use it extensively at the last Conference at Verona, but on his death in 1822 his successor, Canning, joined those who ridiculed and attacked “the Holy Alliance,” as the whole system of conferences was now

popularly called, and without Britain's restraining influence the natural jealousies of the continental Powers soon reasserted themselves. Canning was able to rejoice that the old system of every Power for itself and God for them all had come again.

The failure of this experiment is worth some attention in the world of to-day, even though conditions have changed so much in the last hundred years. For some of the causes of the failure reveal fundamental facts on which international relations still depend and which we are still seeking solution in the experiment of to-day. The Alliance was no more than a loose agreement between the five Great Powers to meet together from time to time. Its objects were never clearly defined either in writing or on the minds of the sovereigns and statesmen, and it was therefore easily diverted to illegitimate ends. It never succeeded in solving the problem of the relations of small and Great Powers. It was confined to Europe, and, as one of the principal problems of the world was extra-European, in which both Britain and France were interested, it was not a suitable machine to solve it. One of the main causes of its immediate collapse was the inability of the European Powers to recognize the distinction between the continents, of which they were soon reminded by the Monroe Doctrine, and even more potent actions of Canning. Castlereagh had intended to build a bridge between the two worlds at the Conference of Verona, but died while this great idea was as yet only adumbrated. Above all, the scheme perished because of the great difference between the outlook of the continental statesmen and those of Britain. Alexander and Metternich wished for specific contracts to safeguard their European interests. The British, while ready to maintain contact, wished to keep their hands free. Moreover, there was a great difference in methods and outlook between the three great autocratic monarchies of Eastern Europe and Britain, while France inclined in this period towards the East. Lastly, transport and communication

was yet very slow. It was impossible to have frequent meetings between the principal statesmen except under the pressure of war. In fact, while Europe felt a new unity, the difficulties of finding means of expression were greater than the impulse towards it. Indeed the idea had only penetrated small classes of the population and the Alliance was never supported by any large body of public opinion.

Moreover, Europe was so organized that it is difficult to see how peaceful solutions of some of its problems could have been reached. The force of nationality which it had been impossible to recognize at the Congress of Vienna, because it was as yet so undeveloped and challenged so many vested interests, proved to be the strongest political force of the nineteenth century. It obtained partial satisfaction in the new Italian state and German Empire, but only as a result of war; while in Eastern Europe, though the Balkan Peninsula had already escaped from the grip of the Turk, the subject populations were still under the domination of three great Empires when the Great War broke out—a fact which indeed was one of its prime causes.

The Industrial Revolution, which advanced so rapidly in Britain in the first half of the century, had its pace on the Continent slowed down partly as a result of these causes, but it made gradually great changes, and after the new stabilization reached in 1871, transformed the industrial life of Western and Central Europe. Contacts between peoples became more and more rapid and frequent. Railways and telegraphs extended all over Europe and communication across the sea became much more certain and easy. Population increased and the whole of Africa and large parts of Asia were brought under European control. European emigrants flocked to the United States, which went through similar changes and gradually grew to surpass in wealth any of the European nations. The South American states preserved their independence, but grew less rapidly in population and resources. The units of power



and industrial organization grew larger and larger as wealth and communication increased, and soon transcended national frontiers. Cultural contacts multiplied between both European states and the Old World and the New. Democratic institutions grew stronger in Western Europe, but were still restrained in the three Eastern Empires by autocratic and aristocratic elements, which retained the control of armed force and the great decisions of the state. The Press was more and more subjected to the influence of organized capital. Socialist organization rapidly spread after 1870, but nowhere had they control of the state and their members; while in theory the foremost champions of a new internationalism, they were in fact also largely imbued with the strongest nationalism.

It is the strength of the national idea which is the key to the fact that while the world was so rapidly being transformed into communities more and more dependent upon one another, so little was done to develop new political institutions by which their relations could be controlled in the common interest. In a sense, Europe had less political machinery in 1914 than in 1818. The experiments which had been tried in the course of the century had never developed. And though there had always been numbers of earnest men and women labouring to prevent the evils of war, they had never been supported by a sufficiently powerful public opinion, nor had they devised any expedients which had won the adherence of practical statesmen. Some machinery had, of course, been in existence. The germ of executive, legislative, and judicial institutions could be discerned before the outbreak of the World War. Had it been delayed it is possible there might have developed something not unlike the system of to-day. But they had grown so slowly in the course of the century that it is difficult to imagine them making rapid progress in spite of a realization of their necessity on the part of small minorities in all countries. The great mass of the people and their leaders in most walks of life still regarded them with great suspicion and clung to

the rights of the sovereign state with a passionate loyalty. Nevertheless, the necessities of the new civilization were forcing new conceptions and strengthening such machinery as existed at the moment the catastrophe came upon the world.

The main lines of development were four, and as they are all to be seen in the League system to-day they merit some consideration. In the first place, there were the meetings of the representatives of the Great Powers which came to be known as the "Concert of Europe." These were not meetings of the principal statesmen. Such meetings only occurred twice after the European Alliance had ceased to function. In 1856 at Paris and 1878 at Berlin the Powers were thus represented, but on these occasions they had met to draw up or revise a treaty of peace. The other meetings were composed of the diplomatic representatives of the Great Powers, meeting in the capital of one of them (occasionally at some other place) under the presidency of the Foreign Minister of the country to which they were accredited. Of these meetings, great and small, there were about thirty in the course of the century. Until 1856 they tended to meet in London, then in Paris until 1870. Napoleon III, indeed, was the greatest advocate of diplomacy by conference in the nineteenth century. He wished to revive the meetings of the principal statesmen and to use them to redraw the frontier lines established at Vienna, and thus avoid the wars threatening Europe. This great conception was thwarted by the inconsistency of his conduct and the suspicion that he was aiming at French aggrandisement as much as the peace of Europe, and the "Concert" remained a machine to settle problems, for the most part, of secondary importance and attended only by diplomatic representatives and not by those who held the real power of nations in their hands. Nevertheless, they were of great service, for some of these questions might have led to war between the Great Powers, if some such machinery for reconciling conflicting

interests had not been used—notably in the Near Eastern Question.

The device was, however, never systematized. It had no continuity, and no Power was bound to accept it. When any one Power wished to block a conference it made conditions before accepting which it knew some other Power would refuse. On many occasions, and especially where the interests of a Great Power were vitally concerned, the machinery could not function, and there was thus no contact between the Powers as a body. The idea unfortunately arose that there was a loss of prestige for a Great Power to accept such a discussion on any matter in which it was vitally interested, even though other Powers had obvious interests also. The system of alliances also made it necessary for the members of the competing systems to support one another at the Conferences irrespective of the rights of the question.

Nor had the small Powers any right of representation. At the Conference of Aix-la-Chapelle (1818), it is true, it had been agreed that they should be summoned to any meeting at which their rights and interests were under discussion. This had been used as the basis of the invitation to Holland and Belgium to the Conference in 1830, which resulted in the establishment of the Belgian state. But neither at this Conference nor at the few subsequent ones at which they were present were the small Powers given an equal position, and for the most part they were simply ignored and the matter arranged without them.

The machinery of the Great Power Conference was executive, legislative, and mediatory. It took executive action in the sense of ordering sometimes armed forces to produce certain results. It was legislative by reason of its pronouncements on general questions of international law, and it was sometimes a judge between the conflicting interests of its own members or of other Powers. In all these functions it anticipated part of the machinery of the League of Nations. But it

was so inchoate and so little elaborated that it depended almost entirely on the personal disposition of the statesmen of Europe. One malevolent or stupid man could easily prevent it from functioning. It never became, therefore, the normal and obvious method of procedure. The experience of one Conference was not handed on by any permanent machinery to the next. It must also be admitted that, strangely enough, it never attracted much attention from theorists or lawyers. It met in secret, and though records of its decisions were published, the processes by which they had been produced were for the most part not known. The statesmen themselves were incapable of analysing or understanding the machinery which they were using, and neither historians nor publicists gave them much assistance. A device, therefore, which contained in itself the germ of an international body such as was obviously necessary for the problems of the age was allowed to remain undeveloped and Lord Grey appealed to it in vain in 1914.

In 1899 and 1907 two other Conferences took place of a different character to those of the "Concert." These were the Conferences at the Hague of special delegates from both Great and small Powers meeting on a footing of equality. Napoleon III had contemplated some such body, but while he wished them to discuss territorial questions as well as such general problems as disarmament, the Hague Conferences were limited to general problems, more particularly with the development of international law. The first was attended by the Great Powers, the small states of Europe, two Eastern states, and Mexico; but to the second all the South American states were also invited, a course not altogether increasing the efficiency and harmony of the meeting. These Conferences dealt mainly with the codification of the laws of war, but they also made a great attempt to develop the machinery for settling disputes between nations. The two subjects aptly illustrated the state of mind of the participants, for war was still regarded as a natural and normal method for settling disputes, though

it was recognized that other methods were more sensible. The attempt to consider also reduction and limitation of armaments was ruled out by the jealousy of the Great Powers, especially of Germany. Nevertheless, some real progress was made in establishing the rules for judicial and arbitral decisions between states. The procedure for arbitral tribunals was codified in the light of the experience of the past thirty years, and the process of mediation was made easier. An attempt was even made to set up a Permanent Court of Justice. But this broke down on the jealousy of the small Powers, who insisted on demanding equal representation with the Great, the South Americans being especially to the fore in the controversy. The idea of a permanent body of elected judges could thus not be realized, and the Permanent Court of Arbitration at the Hague consisted of a large panel of arbitrators from which the parties could select a suitable body when need arose. Yet, though the Hague Conferences were disappointing to those who had hoped to create a world judiciary, they had made a notable advance and devised machinery which might be used again to improve and develope such results as had already been obtained. The failure of the British Parliament (owing to the action of the House of Lords) to ratify the Declaration of London dealing with sea law had somewhat discredited the movement. Nevertheless, preparations were being made to put pressure on Governments to meet in a new conference when the war came. The idea of a general assembly of all the states of the world meeting on a footing of equality at periodical intervals was inherent in the Hague Conferences and inspired some of the plans for a League of Nations.

Thirdly, the idea of arbitration between states had made considerable progress in the last quarter of the nineteenth century and the beginning of the twentieth century. The idea had been long advocated in the Anglo-Saxon countries and had been one of the main planks in the platform of the Peace movement of 1848-53, which had been so rudely dissipated

by the Crimean War. Even Palmerston in 1849, though he opposed general arbitration treaties, had admitted that one between Britain and the United States was a possibility. By "arbitration" was meant a method of decision between the contending parties which approximated to a judicial settlement. Thus lawyers were often appointed as arbitrators and they took into account "international law" so far as it was known. But they had often to make decisions for which no law or precedent was available, and therefore there was great difficulty in determining, not only as to the arbitrators, but as to the question on which they were to arbitrate, or what rules they were to apply. This arrangement, the *compromis* as it was called, often settled the main question before the arbitrators got to work.<sup>1</sup>

Britain and the United States were the only two Powers which had any long record of arbitrations. According to one calculation Britain was concerned in 71 cases up to 1914, the United States in 69, France in 33, though some of these are hardly arbitrations in the strict sense of the word.<sup>2</sup> The South American states also frequently had recourse to this method of settling disputes. For the most part, the disputes were of minor importance, but one or two between Britain and the United States solved questions in which the threat of war had been freely used and in which public opinion had become much inflamed. Most notable of these was the famous Alabama arbitration (1871), in which, however, the main question had really been settled by diplomacy before the arbitration took place. But the Alabama arbitration gave great impetus to the idea and treaties of arbitration were drawn up between many Powers, notably one between Britain and France (1903), which

<sup>1</sup> The famous Guiana arbitration (1899), for example, depended on what territory should be submitted to partition by the arbitrators. Once the terms of the arbitration had been agreed upon by Britain and the United States the matter was largely one of routine.

<sup>2</sup> N. Politis, *La justice internationale*, 35, where it is pointed out that the less liberal states, Germany, Austria, Japan rarely used the method.

was a model for many others. These did not go very far, the "vital interests, independence and honour" of the parties being safeguarded.

In spite of the popularity of the movement for arbitration in the United States, the Senate always insisted on retaining the right to decide the reference to arbitration and vetoed several treaties, including a treaty with Britain, on this ground.

But the idea of arbitral settlement was nevertheless an important one. It gave a new aspect to disputes between nations. It sometimes enabled statesmen to withdraw from untenable positions in spite of nationalist clamour. But it could not often be applied to the most difficult and dangerous disputes between nations. This fact was scarcely recognized by the advocates of peace, whose societies, both the more technical and secular as well as the more religious and humanitarian, laid more and more emphasis on it during the last quarter of the nineteenth and the beginning of the twentieth century. They failed for the most part to recognize its limitations and the necessity for other methods of settling international disputes and safeguarding the world's peace. Especially did they neglect the idea of conference between Governments, the whole tendency being to try to take such matters out of the Government's hands and transfer them to other bodies. This was undoubtedly one of the reasons why the persistent propaganda of the peace societies of all kinds in Europe and America bore such little practical results in the period before the World War. Nevertheless, arbitration might also have become the germ of a wider and more authoritative system had time been given it for development.

In 1914 another idea was added to peace machinery in the "cooling off" treaties negotiated by Mr. Bryan, President Wilson's Secretary of State. These made no provision for the decision of disputes, but provided for delay and the submission of the matter to a Commission for discussion and

report. This procedure of *conciliation* as it came to be called was also to influence the framers of the Covenant.

Fourthly, there were in existence in 1914 a large number of international organizations of an executive character for dealing with subjects in which a large number of different states were interested. These were both Governmental and private. Some dealt with large matters profoundly affecting the intercourse of nations, others with comparatively trivial problems. Their total number has been estimated as at least four hundred in number in 1914, not counting, of course, private international associations for commerce. The most important of them was the Postal Union, by which the exchange of letters between all parts of the world was regulated and to which all states necessarily belonged. This was machinery financed and worked by Governments. Their representatives met at frequent intervals and they possessed a secretarial and office machinery to carry out their decisions. Most of these institutions tended to divide their machinery into three parts, a recurring Conference, an Executive Committee, and a small Secretariat or *Bureau*. The first laid down the general principles and appealed to public opinion, the second worked out the plans in detail, and the third served as a centre of action. They varied, of course, greatly in character and their headquarters were scattered in various capitals, often those of small Powers. The Red Cross, for example, had its centre at Geneva, the Universal Postal Union at Berne, the Institute of Hygiene at Paris, the Institute of Agriculture at Rome. An attempt was made to create at Brussels a centre where they would be in contact with one another, but this design had not yet won much support. For the most part each organization developed quite separately according to the needs it had to meet, and there was no contact nor co-ordination with others. Since Europe was the political, cultural, and financial centre of the world they nearly all had their bureaux in Europe, though states from other continents belonged to them. The American



continents, however, were already developing a certain sense of solidarity and for some purposes possessed similar institutions of their own.

There was thus a network of international machinery into which states had voluntarily entered to deal with problems which all admitted were international. Conventions were drawn up regulating the rights and duties of states in connection with each subject, and by conference and correspondence they solved the difficulties connected with them and obtained great mutual benefits. So many were the interlocking lines between nations that some fondly imagined that they were sufficient to hold in check the forces making for war. When the test came, however, they proved no stronger than cobwebs across the mouth of a cannon.

## CHAPTER II

### THE INFLUENCE OF THE GREAT WAR

What we seek is the reign of law, based upon the consent of the governed and sustained by the organized opinion of mankind.

WOODROW WILSON, July 4, 1918

THE outbreak of the war had been expected in many circles. The General Staffs, some politicians, especially those in Eastern Europe, and a few publicists had been convinced that it was inevitable. But to the great mass of the people in all countries, and especially those of the West, it came as a great shock. Emotionally they had never imagined it, even though they had toyed with the thought intellectually. They had had only a dim perception of the world of armaments and alliances in which they lived; and, indeed, the compacts which had prepared the routes along which they now must march had been for the most part concealed from them. Above all, the attempt to crush Serbia and the violation of Belgian neutrality, which stood out as grim facts in the welter of propaganda with which all countries still obscured their pre-war diplomacy, made a great effect on British and ultimately on American opinion. France was naturally even more impressed with the fact that the Western war was fought on her soil. For Central Europe, isolated from the rest of the world, the merciless pressure of the blockade loomed largest in the later years. Gradually the subject peoples of Austria-Hungary organized their independence. The fringe of nationalities round Russia also raised their heads and those in the Middle East, long subjected to the paralysing denomination of the Turk. Owing to these facts, and to the collapse of Russia and the entry of the United States into the struggle, the war changed its character in the last two years. The Allied nations

took up new watchwords. Nothing less than an entire reconstruction of Europe and the Near East gradually became their programme, partly produced by the logic of facts, partly by the impetus which President Wilson's enunciation of principles lent to the liberal forces of Britain and France. Meanwhile, the pressure of war had brought into being new forms of international co-operation in the Allied countries.

These inescapable facts produced more effect on the future League of Nations than all the plans of the diplomatists, publicists, and humanitarian societies, and their influence must therefore be shortly summarized.

(1) In the first place, the attack on Serbia and still more the invasion of Belgium in disregard of the solemn obligations of a treaty destroyed faith in mere legal safeguards. There was a cry for punishment of the guilty and for "sanctions," i.e. the organization of force against any such future act. As the war progressed and the Allied nations placed more and more reliance on the effect of the blockade on the Central Powers, especially after the United States had entered the war, the idea of economic sanctions as well as the use of military and naval force became a part of the conception of all peoples.

(2) The legal ideas which had inspired the movements for arbitration and the Hague Court suffered a set-back. They had played practically no part in the diplomacy which preceded the outbreak. There had been nothing to compel nations to resort to such machinery, and while the formal question at issue between Serbia and Austria might have been settled by such means, it was clear that the political situation out of which the crisis grew was not susceptible of treatment by legal methods.

(3) The idea of conference, on the other hand, to which Lord Grey had appealed in vain, while in a sense it had also been proved futile, since Austria and Germany refused to accept it, had seemed more likely to be of use at such a crisis. Moreover, it was being used more and more frequently by the

principal statesmen of the Allies in the conduct of the war. In its two aspects of a world executive and a mediatory or conciliating body it was bound to impress itself on future schemes of peace.

(4) This was all the more practicable since in the last year of the war the Allies developed a new kind of international machinery to carry out the decisions of the Allied statesmen in conference. The organizing genius of Sir Maurice Hankey had for the first time endowed the British Cabinet with a secretariat to enable it to cope with the pressure of war business. The same necessity produced the international secretariats which served such bodies as the Inter-Allied Shipping Board. By the end of the war these devices had become firmly embedded in the minds of the statesmen of all countries.

(5) Meanwhile, the control of the Great Powers over the resources of the world had been growing. At the close of the war hardly a ship or a ton of food or fuel could be moved without their consent. Their leaders were courted by those of the smaller nations, whether recognized or struggling for independence, for these soon saw that the world settlement would be decided by those who possessed an overwhelming superiority not only of military but also of economic and financial power.

(6) At the same time, the rights of the small nations had been emblazoned on the standards of the Allies. This was partly due to the events which had produced the war and the response which it had evoked in Britain and the United States. But it was also due to the fact that the liberation of the smaller nationalities of the Austrian and Ottoman Empires became one of the means of overthrowing the Central Powers. The Central Powers applied the same weapon to Russia. There was thus a recognition of the right of self-determination of nationalities to which the President of the United States gave lofty expression in the later stages of the war. The exact relation of this zeal for small Powers to the overwhelming

superiority of the Great was not easily perceived. But at any rate, it made more than ever necessary some form of international body to co-ordinate the fragments of the fallen empires.

(7) Added to this was a new justification of democracy. The one autocratic Power on the Allied side was overthrown and the democratic republic of the New World took its place. It was inevitable that the Allies should insist on the superior moral and political value of their institutions as contrasted with those of the Central Powers.

(8) There was also a growing demand for publicity of diplomacy. This had been awakened by the facts which had produced the war. It was reinforced by the discovery of the secret treaties which the Allied Powers had made during the war. The incisive advocacy and successful practice of open diplomacy by President Wilson drove in a lesson already learnt by experience.

(9) Lastly, charity had not entirely died as a result of war. The neutrals lent their aid to mitigate some of its evils by the use of the Red Cross machinery, and the United States, through the skilful and sustained energy of Herbert Hoover, administered relief on an unprecedented scale. Such efforts for the relief of suffering established a new claim to recognition.

Meanwhile, the world had been full of schemes for a new international organization which should prevent the recurrence of the catastrophe under which it was suffering. These were most apparent in the Anglo-Saxon world, where the idea of a war to stop all war had appealed most strongly. But some of the smaller neutrals had also joined in the search, especially the Dutch and Scandinavians, and the pacific organizations, though many of them had for a time practically ceased to function, gradually reorganized themselves under the leadership of their most extreme adherents, who refused to recognize the validity of war. So insistent was the pressure from below that the statesmen of the warring countries were gradually forced to take notice of it. Indeed, Mr. Asquith and

Lord Grey had from the outset made a world organized to prevent war one of the objects of British policy. In the strain and hazard of the conflict, however, this object stood some chance of being relegated to a very subordinate position in the Allied councils had it not been for three men of lofty ideals.

By far the most important and influential was, of course, President Wilson, who put the idea of a new world organization in the forefront of his wonderful speeches which echoed through the world and penetrated Cabinets and Foreign Offices, as well as Parliaments and public places. He brought to all who believed in such ideas a new hope that they might be put into practice even when the collapse of Russia and the publication of the secret treaties had reduced them to something like despair.

In Britain the idea had warm advocates in General Smuts and Lord Cecil.<sup>1</sup> It was the latter who caused an official Committee to be set up by the British Cabinet to consider the proposal from a British point of view, and thus produced the draft which was the germ of the League of Nations. It was General Smuts who, at the later stage, extended and developed the idea of the League into an organization for peace, as well as a preventive of war. In France no statesman of first rank reckoned much of these ideas, so preoccupied were they in the immediate danger. But M. Bourgeois, a veteran of the Hague Conferences, was designated by them to draw up a French scheme which inevitably tended to stress the idea of sanctions.

All these men were affected by the unofficial schemes of which a large number were being drawn up in Britain and the United States. In each country new voluntary societies, in accordance with precedent, had sprung up to advocate the new idea. In America the League to Enforce Peace—a significant title, but one which did not express the ideas of

<sup>1</sup> Then Lord Robert Cecil but called by his present title throughout this book.

some of its principal members very accurately—began to explore the possibility of a world organization long before America entered the war. In Britain a group led by Viscount Bryce early began an examination of the subject and produced specific proposals. Two League of Nations societies were formed which included many different liberal forces, and subsequently fused together to form the League of Nations Union. The Union of Democratic Control was more extreme. The most comprehensive, scientific, and practical scheme was produced by a Fabian Committee mainly under the leadership of Mr. L. S. Woolf, whose preliminary articles in the *New Statesman*<sup>1</sup> had great influence in other countries. At the Hague the most detailed of all the schemes was drawn up by a Committee, which naturally took more account of the Hague Conferences than some others.

These societies knew of one another's work to some extent, though exchange of ideas under the pressure of censorship grew more difficult as time went on. Most advocated the extension of arbitration and a large number the establishment of a Permanent Court. Sanctions were attacked by the extreme pacifists, but were found in most other schemes. The idea of conference as a mediatory instrument or to formulate new rules of law became fairly general. There were tentative approaches to some form of disarmament. The recognition of nationality as the basis of the new Europe was generally accepted. The idea of the "freedom of the seas" found a response in many neutral as well as in the enemy countries.

Meanwhile, the Governments as usual lagged behind. They were concerned with the immediate problems of the war. President Wilson had as yet done little more than try to apply to world problems the general principles which he had already begun to put into practice in the American continent. He had not yet accepted any machinery, and was

<sup>1</sup> Subsequently published under the title *International Government* (London: George Allen & Unwin, Ltd., 1919).

at first critical of the sanctions which found a prominent place in the plan of the League to Enforce Peace. He wished to keep his hands free for the work of mediation which he still hoped would be his. But he stressed strongly the idea of a League of Nations in his Peace Note of December 1916, which was accepted in principle in the Allied reply. Only the vaguest of formulae, however, had as yet been used by responsible statesmen.

America's entry into the war naturally tended to change somewhat the President's point of view, and for some time he was absorbed in the executive work necessary to organize the American people for their great crusade. Though his speeches continued to advocate with great force the idea of a peace which should make war impossible, it was still enshrined in massive principles. These much increased the belief in the possibility of a world organization in the public opinion of all countries and stimulated private individuals and societies to work out detailed plans. Most important of all his speeches was that of January 1918, in which he laid down the famous Fourteen Points, subsequently to be the basis of the armistice with Germany, of which the last was: "A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike."

In was in Britain that the first official draft was produced. Already in 1916 Lord Cecil had suggested to the War Cabinet the idea of compulsory Conference such as Lord Grey had advocated in 1914. In 1917 the special British Committee under Lord Phillimore was set up by the Cabinet to consider the whole question. Since it contained three Foreign Office officials, including Sir Eyre Crowe, it was not likely to indulge in Utopias. Three historians assisted them, but unfortunately, not ones with special knowledge of the diplomatic history of the nineteenth century or of the development of international



law. The Committee were doubtless influenced to a considerable extent by the private schemes of which a number had now been published and were reviewed in their report. They admitted that they had not studied the system of Alliance set up in 1815 nor its developments during the nineteenth century. The kernel of the report was a draft convention due to the diplomatists and Sir Cecil Hurst, the Legal Adviser of the Foreign Office. This document is the starting-point of all official schemes for a League of Nations. It is confined entirely to the prevention of war and the pacific settlement of disputes. For this purpose the idea of compulsory arbitration of all disputes is abandoned, since this would set up a super-state. In its place is substituted an agreement to resort to arbitration or to Conference before war is declared so that a period of time must elapse before hostility could break out, during which public opinion could exert its influence. The course of events in 1914 were the determining factor in the decision. The idea of sanctions was also accepted, especially economic sanctions, which then loomed large in the war, against any Power which broke the promise of delay, an important point to remember in the subsequent development of that idea.

For this convention became after considerable alteration and redrafting the heart of the Covenant. Articles XII-XVII are founded on it and even their wording is largely derived from it. It was the maximum which practical men believed it possible to obtain and represented the ideas of official circles in London so far as they had considered the question at all.

This draft was sent across the Atlantic and had great influence on President Wilson and his confidant, Colonel House, when they began to consider in earnest a detailed scheme for a League of Nations. Indeed, they incorporated its provisions in their own drafts, adding, however, other clauses which attempted to formulate more explicitly the principles

of open diplomacy on which President Wilson had so often insisted. They also suggested a permanent Conference—a Body of Delegates—composed of the Ambassadors of the Powers stationed at the capital of some small state. This extension of the Concert system was obviously partly modelled on the Pan-American organization at Washington. Wilson also introduced the idea of a guarantee of independence and territorial integrity which he had already used in South American affairs, adding, however, machinery by which frontiers could be altered by a three-quarter vote of the Body of Delegates. This was the germ of the famous Article X of the Covenant which was to cause so much misunderstanding and controversy at a later date.

Meanwhile, a French draft had also been drawn up and sent across the Atlantic and the Channel. This stressed the idea of sanctions which it elaborated into an international police force to be controlled by the executive committee appointed by an international authority composed of the heads of all states members. This scheme, however, produced little effect on British and Americans, partly because it had not yet received French official support.

The French now commonly used the word *Société* of nations, while the Anglo-Saxons had begun to call their organ a *League* of Nations. These two words thus became synonymous of one another, though they clearly convey very different ideas. The use of the word "League" apparently was first used in order to emphasize that the proposed body was confined to certain states for certain purposes. But as the scheme developed the word became very inadequate to the conceptions of the authors and it is unfortunate that the word "Society" was not adopted in English as in French.

Thus when the armistice arrived the Anglo-Saxon official schemes only contained proposals for settling disputes and preventing war and conquest. The permanent organs suggested for this purpose were of a most rudimentary character. The

idea of the League as the centre of diplomacy and an organization of international co-operation had yet to be accepted.

It was General Smuts who first gave these ideas prominence in his famous Memorandum of December 16, 1918. In this document the League is viewed as a result of the process of civilization of which a survey is given. An international body to co-ordinate the activities of states was now a necessity. The League must not therefore confine itself to the negative action of preventing war. It must be the main organ for the reconstruction of Europe and the Middle East, and for ensuring the harmony of the new world which would arise after the war. This was all the more necessary as it was clear by this date that the Eastern Empires had been overthrown and that a number of small and inexperienced national units were about to arise out of their ruins. It was in connection with these that Smuts advocated the famous Mandatory principle; the German Colonies (of which he had conquered two himself) he wished the Allies to annex outright.

For such work a more definite authority was necessary than had been envisaged in previous official schemes. Smuts advocated, therefore, a general Conference of representatives of all states members, perhaps nominated by the legislative rather than by executive, meeting at regular intervals in which international affairs should be publicly discussed and thus awakening and enlightening public opinion, and a smaller executive body for the administrative duties of his scheme which should meet frequently. This was the germ of the Assembly and Council of the League, the Parliament, and Cabinet, in a sense, of the international community, though it was recognized that this was only a very rough analogy. The smaller body was definitely modelled on the Supreme Allied Council, which had controlled Allied affairs with ever-increasing efficiency in the later stages of the war, and it was to be assisted with a secretariat similar to that by which efficiency had been at last attained. It would undertake not only the new tasks

which the war had made inevitable, but also co-ordinate all that international action, both Governmental and private, which, as has been seen, was already in existence in 1914.

Smuts and his advisers—for this comprehensive document had obviously been drawn from many sources—had thus carried the conception of the League on to another plane. It had become an active instrument of international co-operation. At the same time they considered it would also be made much more efficient for its other work of preventing war. For this purpose they adopted the recommendations of the Phillimore report, but also emphasized the abolition of conscription and the reduction and limitation of armaments.

Moreover, though Smuts was a member of the British War Cabinet he was also the representative of a small state which was already conscious of its destiny. It is not surprising, therefore, that he was the first to attempt to harmonize the rights of the Great and small Powers. In the larger body the latter would have equality. But Smuts also suggested that they should be represented in the executive body by a number chosen from amongst themselves, the idea of regional representation not being excluded, remaining, however, in a minority of one to the five Great Powers who would be permanently represented there.

This great paper, expressed in cogent and moving language, immediately had a profound effect. It crystallized ideas and aspirations which had been held in many quarters, and made deep impression on both Lord Cecil and President Wilson. The former had now resigned his official position and was devoting himself almost exclusively to work of preparing the League of Nations which had been entrusted to him by the Cabinet. On November 11th he made a speech at Birmingham in which he restated his position and insisted on the importance of the League to the whole settlement of peace. In the draft treaty which he began to prepare and which was the British official draft for the Peace Conference

he incorporated a number of Smuts' ideas, especially that of an executive Council to meet annually, on which, however, he wished only the Great Powers represented, "since the Great Powers must work the League." The larger Conference of all states he suggested need only meet every four years, but he was also inclined to include an annual meeting of Parliamentary representatives on the lines of the Inter-Parliamentary Union. He also took up a point in which neither President Wilson nor Smuts had as yet shown much interest—the creation of a Permanent Court of International Justice, for which he even had the details of election already worked out, and which he considered would have much work to do.<sup>1</sup> Geneva was suggested as the seat of the League.

President Wilson, when he began to redraft his own scheme in Paris, also accepted many of Smuts' ideas. He was quite ready not only to have a Council, but also to admit the small Powers to it. He still preferred his Ambassadorial Body of Delegates to the larger Conference of special representatives, but he gave way in this point when Lord Cecil pointed out to him that the British Dominions, who would insist on separate representation in the League, had no diplomatic representatives. After Lord Cecil, President Wilson, and Colonel House had discussed this and other questions on which differences of opinion still existed, the British and American legal advisers, Sir Cecil Hurst and Mr. David Hunter Miller, drew up an agreed (or nearly agreed) draft embodying those of Lord Cecil and President Wilson, whose ideas had now been brought into close harmony. Though President Wilson did not entirely accept this and drew up a fourth draft of his own, the document substantially meant an agreement between the British and the American President before the work of drafting the Covenant had begun. Not all the President's advisers—and

<sup>1</sup> One reason being the precedent after the Congress of Vienna, though it is difficult to see what precedent there was then for judicial work.

particularly the jealous and pedantic Mr. Lansing—agreed with him, and Lord Cecil's schemes were not enthusiastically supported by any of the British Cabinet, except General Smuts; yet the two men by force of circumstances represented their peoples for the time being. Lord Cecil had already been picked out by public opinion in Britain as the foremost champion of the League, and the British Prime Minister, who had many other things to handle, wisely allowed him to represent Britain on this subject. He was to keep that position longer than President Wilson retained his. But, of course, that President Wilson himself was prepared to fight the Anglo-American draft through the Conference was all-important. He had reached the height of his prestige. The idea which he had so long advocated he was not prepared to entrust to any other hands but his own. On February began the meetings of the League of Nations Commission of which President Wilson was inevitably the leader, with Lord Cecil acting as his brilliant second and Colonel House and General Smuts in attendance ready to support their leaders. They had a draft prepared. With such a team and such preparation it was inevitable that the Covenant of the League should be mainly an Anglo-Saxon document.

## CHAPTER III

### THE DRAFTING OF THE COVENANT

A living thing is born.

WOODROW WILSON, February 14, 1919

THE Paris Conference, which met on January 12, 1919, had problems of greater complexity than any international Assembly which had preceded it. It had to deal with the *dissecta membra* of Four Empires. Its enemies lay prostrate before it, but the countries of Europe and Asia which they had governed were in a state of chaos. New nationalities were organizing, new armies were being created, economic and financial conditions were in places desperate and everywhere difficult. In Russia a struggle was still in progress, though the Bolsheviks had now established their new and still mysterious form of government. Above all, the feeling of hatred which had been produced by the war had reached the highest pitch. Motives of greed, fear, and revenge filled the minds and hearts of vast numbers of people, and the statesmen, who had encouraged and organized these emotions during the war, in some cases shared them, and everywhere found it difficult to moderate or control them.

This was the world in which the Covenant of the League was born. In one sense the magnitude and difficulty of the problems made an international organization all the more obvious and necessary. But they also occupied the attention of the statesmen to the exclusion of larger and wider views, distracted public opinion, and tended to make immediate difficulties influence the permanent organization of peace.

The armistice had been signed on the basis of the Fourteen Points and the principal parties to the Conference had thus already accepted the principle of a League of Nations as one of the conditions of the permanent peace. Nor was there any opposition by the leading statesmen of Britain or France

to the establishment of the League as has sometimes been alleged. But neither Mr. Lloyd George nor M. Clemenceau attached the same importance to the League as President Wilson. They had not the same belief in its necessity or confidence in its success. Their minds were far more preoccupied with financial and territorial problems in which their countries were more directly interested than the United States. While, therefore, not opposing, either openly or secretly, the establishment of the League, which indeed in different aspects fitted into the policy which each thought best for his country, they did not give it much active assistance or take any part in constructing its machinery.

President Wilson was from the first determined to make the League an integral part of the Treaty of Peace. One of his main reasons for this decision was undoubtedly domestic—to ensure its acceptance by the American Senate—for the recent elections had shown the strength of his opponents, and they were likely to concentrate on the League with which he was himself so much identified. But he also believed, as did many others, that this plan was in the interest of both the League and the Treaty of Peace. It would make the League a part of a vast settlement affecting all nations, thus embedding it finally in the texture of international obligations. It would also enable it to be used as a part of the machinery for settling some of the complicated problems which confronted the world, and by this means the League itself would at once be made a reality and these problems could be more wisely and justly solved. Lastly, it would ensure the acceptance of the League plan by all the nations who were to benefit by the Peace Treaty.

Thus at the very first meetings of the Inter-Allied Supreme Council, the "Council of Ten," which controlled the Paris Conference until the even smaller "Council of Four" took its place in the middle of March, President Wilson insisted on the League being placed in the foremost place on the



Agenda. Neither Mr. Lloyd George nor M. Clemenceau raised any objection, and they accepted immediately resolutions drafted by Lord Cecil and re-drafted by President Wilson asserting the principle that it should be an integral part of the Treaty of Peace and establishing a commission to work out its constitution and functions. The Plenary Meeting of all the members of the Conference ratified this decision, and the League of Nations Commission was thus set up. It was composed of two representatives of each of the Great Powers and one of five of the small Powers. At one time some advocates of the League had been in favour of entrusting the drafting to a Committee of the Great Powers alone. But even if this course had been desirable the small Powers would never have accepted it. They were already full of discontent at the manner in which the Great Powers, "the Council of Ten," were obtaining control of the Conference, and were demanding representation on the other Commissions which were being appointed. It was inevitable that they should be represented in the Commission of the League of Nations to which many of them attached great importance, seeing in it a means of protection which they could obtain from no other source. Indeed, the representation of the small Powers had to be increased to nine after two meetings of the Commission, so insistent were their demands. This increase had some influence on the results of the Commission, but the small Powers were not united in their views, and never formed a party against the Great.

More important was it that the increase of representation increased the number of important personalities concerned with the making of the League. President Wilson, by appointing himself and Colonel House as the American members from the first, gave it a prestige greater than the other Commissions of the Conference. General Smuts and Lord Cecil had behind them a powerful body of opinion in Britain. M. Bourgeois had a long record of work at the Hague to his

credit. M. Orlando was head of the Italian delegation and welcomed the opportunity of combining with President Wilson. The Japanese representatives were only conspicuous on one point, which they failed to win. The representatives of the smaller Powers included M. Venizelos, Prime Minister of Greece, then at the height of his power; M. Kramař, Prime Minister of Czechoslovakia; M. Hymans, Foreign Minister and most active plenipotentiary of Belgium; Mr. Wellington Koo, the Chinese Minister at Washington, also broadened the range of the delegates. There were also some constitutional lawyers, M. Larnaude the second French delegate, Sr. Scialoja of Italy, and M. Vesnitch of Serbia. These often brought penetrating analysis and criticism to bear on the conceptions of the more politically minded President, who, however, always had Lord Cecil's legal training at his command to assist in the defence, as well as General Smuts' philosophical profundity, with the alert and incredibly industrious David Hunter Miller and Cecil Hurst in the background. President Wilson from the first assumed the leadership and took the chair at all the meetings except one only, when urgent duty forced him to be absent. Lord Cecil took a more active part in the debate and steered the Anglo-American draft through the objections and criticisms of the others, only bringing in the President's authority when it was absolutely necessary to clinch a decision.

President Wilson forced the Anglo-American draft on the Commission from the outset. The French had also an elaborate draft carefully prepared by M. Bourgeois and others, but it was set aside, as also the Italian draft, which was a much hastier affair and hardly more than a document of prestige. M. Bourgeois had, however, some reason to complain that his own work was not given much attention. "Please note," he said on one occasion, "that we are in a somewhat delicate situation, for we are always in the position of discussing a text which was never our own. We can act only by amending

the text proposed by the chair, and that gives our interruptions an aspect that I truly regret." This was true enough, and as M. Bourgeois unfortunately had one or two *idées fixes* which he laboured on every occasion, especially that of an international army, which no one else thought feasible, he had but small influence on the final result. Nearly all the members had, however, something to contribute, and both Lord Cecil and President Wilson were quick to give way in detail, and indeed on one or two occasions on fundamentals. They were open to argument so long as the main principles of their scheme remained intact, and the machinery was therefore transformed a good deal in the process of construction and certainly much improved on almost every point. But the basic ideas had been settled before the Commission met. The Anglo-Saxon conception of world peace had won the victory already. The point cannot be too strongly stressed in any estimate of the work of the League of Nations.

The Commission, which met in the evenings so that President Wilson might devote the day to other pressing duties, worked with great rapidity, and in ten meetings it had completed its first draft. This President Wilson insisted on reporting direct to the Plenary Conference on February 14th in a public session. The essentials of the Covenant were thus before the world as an official document. The Assembly, Council, and Secretariat, though the two first had yet different names, the machinery for settling disputes, the publicity of treaties, the guarantees of Articles X and XVI, the disarmament clauses, and the provisions for international co-operation were all *in situ*. The institution of Mandates by which the conquered territory of the Ottoman Empire and German Colonies were to be placed under the government of certain of the Allied Powers as trustees under the supervision of the League had at an early stage been decided by the "Council of Ten" after a stern struggle between President Wilson and the Dominion representatives. General Smuts found his own device turned

against himself, but he loyally accepted the change which seemed to make little practical difference. This article, except for a slight verbal amendment, was not touched by the Commission, but left in the rather political language in which it had been drafted for the "Council of Ten."

President Wilson, in his speech of presentation, stressed the simplicity and flexibility of the provisions and that much had been left to be worked out by the League itself. "A living thing is born," he claimed. Only the recording angel can know how many of those assembled believed him. Most of them were still preoccupied with the division of the spoils of battle. But it was clear that the appearance of this document as the first practical piece of work of the Conference was an event of the greatest importance. It influenced all the future work of the Conference as well as public opinion throughout the world.

The President then returned to America to cope with the opposition to his policy which was growing there in Congress and elsewhere. This visit was hardly successful, but he obtained from League supporters suggestions for amendments of the Covenant to meet public opinion in the United States. The most important of these, made by Senator Hitchcock, ex-President Taft, and President Lowell of Harvard, concentrated on one or two points which did not affect the fundamentals of the Covenant, viz. the right of withdrawal, which the President believed already implicit in it, the recognition of the Monroe Doctrine, and the express reservation of domestic subjects. After one unsatisfactory meeting with the Foreign Affairs Committees of the House and the Senate, the President returned to Paris. Criticisms continued to come across the Atlantic, including constructive proposals from Mr. Elihu Root and Mr. John W. Davis. The former wanted a Court with compulsory jurisdiction and the codification of international law. But as will be seen, there were questions far too big to be settled at this time. At Paris, naturally, work on the League had stood still during the President's absence. Its position might indeed have

been affected had the proposals for a Preliminary Peace with Germany which the President had accepted in principle before he left been carried out. But this proposal had been hastily made and was soon seen to be impracticable. There was no intention, as some writers have stated, of using it to shelve the Covenant, though it is true that there was no great enthusiasm for the League amongst the principal representatives of the Allies at Paris.

On the President's return the Commission held five more meetings, in which various amendments, mainly those proposed by the British and those which the President thought necessary to meet public opinion in America, were inserted. A Sub-Committee also had two interviews with the representatives of the neutral Powers who had come to Paris—Holland, the three Scandinavian nations, Switzerland, Persia, Argentine, Chile, and three other South American Powers. The main contributions to this discussion came from the European states who wished the provisions for judicial settlement and arbitration to be strengthened. They made also other criticisms of detail, but on the whole accepted the main ideas laid before them, and their intervention left few traces on the Covenant. Two Memoranda came from the two Dominion Premiers, Sir Robert Borden (Canada) and Mr. Hughes (Australia), the former constructive in detail though especially objecting to Article X, the latter so hostile in tone as to be of little use.

The final draft was now being prepared and was subjected to two readings before the full Commission as well as overhauled by a Drafting Committee and a special Committee of Revision. At this stage Lord Cecil was more prominent than President Wilson, who was now in the thick of the momentous discussions of the "Council of Four," though he kept closely in touch with the work through Colonel House and Mr. Miller and took his accustomed place at the three meetings of the full Commission.

In this period the most important changes were the inser-

tion of the right to withdraw after two years, the clause on Domestic Jurisdiction, and the article on the Monroe Doctrine. The wording of this last article was largely British, and was studiously vague. It attempted to satisfy the susceptibilities of both the United States and South America. The European states, though Mr. Lloyd George tried to use the opportunity to make a bargain concerning sea power, did not resent the mention of a doctrine which had hitherto been only the unilateral declaration of the United States. As it was, the idea of regional organization received some authority from the article. Important changes were also made in the phraseology of the Covenant. The dignified word "Assembly" was substituted for the clumsy phrase "Body of Delegates." This indicated, indeed, a change in the conception of that body both in the President's mind and in that of others. It marked the abandonment of the idea that the larger meeting of the Powers should be diplomatic—perhaps a permanent Committee of Ambassadors. The meeting of the Socialist International at Berne had already laid down various principles for an international body, which amongst other proposals had contained the suggestion that an inter-Parliamentary body elected by the Parliaments of the various states should be a main part of its machinery. General Smuts had been inclined to support some such scheme as this as an addition to the Assembly and the Council. It had been rejected, but the result had been to view the Assembly more as a deliberative and less as a diplomatic machine. The choice of representatives was left entirely open, and Lord Cecil and others thought that the Assembly might contain a large proportion of non-official members. As will be seen, the exact method of representation in the Assembly is yet a matter for argument and discussion, and it was fortunate that no attempt was made to define it too closely. The number of delegates was, however, after much debate, fixed at three, as it turned out an inadequate provision, but which has done no harm.

The word "Executive" was also removed from before Council as a result of the suggestions of the Dominion Premiers. This also was a salutary amendment, as the Council had other duties besides executive, and the use of the word frightened those who were always on the lookout for the bugbear of a super-state.

Another change of great importance made in the later period had been the substitution of the word "Member" for "State" throughout the Covenant in order to make the position of the Dominions equivalent to that of any other member. Their entry into the League had already been expressly provided in the first Article, and if it was hard to consider India a self-governing Dominion, she was included by the fact that her name was in the Annex of original members. Since the Dominions had already been accepted as members, the change was in a sense merely formal.<sup>1</sup> More important was it that the right of election to the Council was thus obtained, and when it was suggested that this was doubtful the Canadian Delegation secured a special letter from the "Council of Three" approving their right. This was an important piece of forethought for later days.

There were also considerable additions to the League's work of international co-operation, mainly as a result of British initiative. Opium, the White Slave Traffic, and Health were specifically included as subjects of international action which the League might undertake. A special clause was added concerning the Red Cross. Indeed, now that the Covenant was in being, all kinds of suggestions were being brought forward by those who had particular objects at heart, and there was a danger that it would be overloaded with ill-digested schemes. A project for a financial section devised by the

<sup>1</sup> The French insisted on keeping the word "state" in one paragraph of the Disarmament Article VIII and in the phrase "covenant breaking state" of Article XVI. The exact effect of this retention is not clear and its practical value is probably nil.

egregious M. Klotz, Clemenceau's financial minister, would even have given the League the invidious task of supervising reparations, but this duty was not accepted by Cecil and Wilson.

A few other changes made more explicit what had been hitherto only implicit in the Covenant. Thus the equal rights of women to League appointments was inserted in a special clause, partly as a result of the efforts of the International Council of Women, of which a delegation was received by the Commission. The rule of unanimity, except in matters of procedure, was expressly inserted with an alteration at the last minute to allow of special action by majority decision for certain duties laid on the League by the Treaties of Peace, and other articles, notably the unsatisfactory one concerning amendments to the Covenant, were redrafted and made more intelligible.

One of the omissions of the Covenant had occasioned considerable controversy. This was the refusal of the Japanese desire to have the principle of racial equality approved. President Wilson had originally intended to insert an affirmation of religious toleration. The Japanese added the idea of racial equality, with the result that the British Dominions were alarmed. Both ideas were therefore dropped, but the Japanese returned to the attack with an amendment which merely stressed the equality of nations, and a long debate ensued. The great majority of the Commission were in favour of it, but the British veto, which Lord Cecil delivered as though he were undertaking an ungrateful task, prevented its acceptance.

Meanwhile a decision of primary importance had been taken as regards the habitat of the League. From the first a number of people had thought of Switzerland for this purpose. It clearly could not be the capital of a Great Power, and the only other two countries that had claims were Holland and Belgium. But the Hague had been in a sense discredited



by the war, and its neutrality had been considered by some of the Allies as too favourable to Germany. Brussels, on the other hand, would have recalled too painful memories of the German occupation. Thus, though M. Hymans made a powerful plea for his country, only France supported him, and Switzerland became the favourite candidate. Of all its towns Lausanne and Geneva, in the French-speaking part, seemed specially suitable, and Geneva by reason of its religious associations made a special appeal to President Wilson. It was not for some time, however, by any means certain that Switzerland would accept the responsibility of being the seat of the League. The Swiss are passionately attached to their status as a neutralized state given them in 1815. They wished to assure this before they would join the League by a special article in the Covenant. But this would have meant creating a precedent of special treatment such as the authors of the Covenant were most anxious to avoid. In the end, therefore, Switzerland received an assurance from the Council of the League on this question, the Covenant was accepted by a Referendum by a small majority, and Geneva attained to a new position in the international world. It had been decided, however, that meetings could be held in other places, and the first Council meetings were held in Paris or London, and there was even a proposal, inspired from French sources, that the first Assembly should be held in Brussels. President Wilson had, however, been given the right to summon the first meeting, and by deciding on Geneva he established a precedent which has never been broken. On the whole, the choice was as wise a one as could have been made.

There was also the question of appointing the principal officer of the League Secretariat. At one time it was intended that he should be a prominent statesman of one of the smaller Powers, and the title Chancellor had been assigned to him. M. Venizelos had indeed been sounded as to his willingness to accept this position. But he had other things to do, and it

was eventually decided to use the title Secretary-General, which means no more than General Secretary, though in the English tongue it sounds better. The position was, however, bound to be one of great importance, and it was not easy to find an entirely suitable candidate. Had Sir Maurice Hankey cared to accept it he would certainly have been appointed, but he preferred his assured position in London. When Sir Eric Drummond's name was announced it caused considerable surprise and some disappointment in those most interested in the League, but history has shown how justifiable was the courage which led him to seek the post.

The League of Nations was thus quite ready for insertion in the Peace Treaty with Germany which was handed to their delegates on May 7th at Versailles. They naturally included amongst the other protests the fact that they were forced to accept the Covenant without being allowed to become a member of the League. They had drawn up an elaborate scheme of their own which they forwarded with other criticisms to the Allied and Associated Powers. But it was of course impossible to make changes in the Covenant at this time. The criticisms of the Germans received but little attention. They were answered in some diplomatic notes, while it was pointed out that provision had been made for the admission of Germany when she had proved her good faith. Nevertheless, Germany was forced to sign the Treaty of Versailles, the first chapter of which was the Covenant of the League. It was also inserted in the treaties with Austria and Hungary and Bulgaria, who were placed in exactly the same situation as Germany. The original members were the signatories of the Treaty, thirty-two in all, including the Dominions and India, who signed separately. These were all states who had joined the Allied side in the Great War. Thirteen neutral states were also invited to accede to the League as original members.

Before the League could come into existence the Treaty

had to be ratified by a number of Powers. This had been laid down in the Treaty as of whom three must be Great Powers, the number having been reduced from four at a time when it seemed possible that Italy would refuse to sign. It was recognized at an early date that the ratification of the United States might be delayed, though few foresaw the total rejection of the League and the Treaty by that country.

The delay of six months before ratification was indeed very necessary to lay the foundation of the organization. An organizing Committee was appointed of representatives of the Powers on the Council, and the initial steps were taken in London, where the Secretary-General began to recruit his officials and make provision for the work of the League.

That this would from the first be considerable was made certain not only by the provision of Articles XXIII-XXV of the Covenant, but also by the fact that a number of duties had been laid on the League by the peace treaties. For, as President Wilson had foreseen and desired, the early creation of the League had caused it to be used on many occasions as a means of solving the problems of the settlement. Danzig was placed under its protection and the Saar under its administration. The Minorities treaties with the new states depended on the existence of the League. To the League was also given the decision of a large number of other points, some of them small, but others carrying considerable responsibilities. It had indeed been so firmly embodied in the treaties that without it they became unworkable. That this close connection had its disadvantages was seen in the fact that its authors had rejected the proposals to put both the disarmament and reparation parts of the Treaty under its supervision—at any rate in the early stages. Neither President Wilson nor Lord Cecil wished to make the League's main duty to act as an instrument for enforcing the Treaty of Versailles. Nevertheless, the supervision of parts of the treaties became one of its

functions, with important consequences. The fact did, however, make the League at once a body with definite duties which could not be postponed and was one of the causes why it survived the difficulties of its early years.

We can see now, though its authors were only partly conscious of the fact, how much the conception of the League had changed during the Conference. They began with the idea of erecting machinery to prevent war as the main purpose of their minds. Though the Smuts memorandum had also brought the idea of international co-operation forward, it was the negative side which had been most discussed, and the machinery which it was proposed to set up was mainly devised for that purpose. Guarantees, sanctions, methods of settling disputes, prevention against sudden attack, were the topics which had been most violently debated. The Body of Delegates, at first conceived as a diplomatic body, was later regarded as a larger Conference, but it was not meant to meet often or, indeed, to have much influence. The executive Council was to be composed only of the Great Powers, and meet usually once a year, unless it met specially to compose a dispute. The conception of the League as a meeting-place of statesmen grew slowly, but it gradually began to take possession of the minds of the Committee or some of the most important of its members.

Thus the Body of Delegates became the Assembly, which it was hoped would meet at least once a year. Its composition was, however, as yet uncertain and the plans for making it a sort of World Parliament instead of a meeting of responsible statesmen had caused many to regard it with suspicion. No one foresaw the rôle it was destined to play.

The Council, on the other hand, enlarged by the representatives of four small Powers, had been given a large number of duties, and it was expected to be the principal organ of the League. Its composition also was not assured, but it was hoped that the principal statesmen of Europe would use it

at once as one of their main organs. It will be seen how long it took to develop into this position.

In later stages also the functions of the League were widely extended along the lines of Smuts' original plan, and many other duties had been placed upon it by the treaties. These for the most part needed action by the Council which was regarded as executive in its main purpose. Even now, however, its importance as a centre of intercourse was not foreseen.

On the Secretariat great hopes were placed which were later to be justified, but the idea of an active head of statesman's rank had disappeared.

The kernel of the League was still the articles by which the members took obligations as regards disputes and promised to protect one another from violations of the procedure of the Covenant. These were little more than the provisions of the Phillimore plan with Wilson's important addition, Article XI, of which few but himself saw the great importance. The Court was yet to be made, in spite of Lord Cecil's advocacy and the wishes of the neutrals. Article X, on the other hand, had attracted great attention and was looked upon by France and the new states as the most valuable article in the Covenant. The disarmament articles were not yet regarded very seriously, and hardly anyone thought they would be of much use.

Nevertheless, the authors of the Covenant, even though they sometimes, as was only natural, were not aware of all they were doing, had made a wonderful structure. They had interwoven the various ideas of world organization into one strand and each could strengthen the others. Above all, they had avoided too much definition and left for the future the development of their institutions. This was a deliberate choice on the part of President Wilson and Lord Cecil. They had maintained in the face of much criticism what might be described as the Anglo-Saxon character of the League. The distinction has been well described by one of Lord Cecil's capable secretaries:

The real divergence lay between the adherents of the rigid, the definite, the logical, in other words, the juridical point of view, and those who preferred the flexible, the indefinite, the experimental, the diplomatic; between those who feared human nature and wished to bind the future, and those who believed in human nature and were content to trust the future; between those who desired written guarantees and those who desired moral obligations only; to be cynical, between those who expected to receive under the Covenant, and those who expected to give; in a word, between the continental point of view and the Anglo-Saxon.<sup>1</sup>

But above all, the great thing was that the League was made, and made in such a way that it must be given a chance to function. This was the greatest of all President Wilson's decisions in 1919, for without his determination it is clear that the League could not have come at once into existence. And if it had been postponed, it would certainly have been postponed for a generation—until in fact it was too late. As it is, whatever its imperfections, it has provided the greatest experiment in political machinery that the world has known. By its mere existence it has taught more about international co-operation and the prevention of war than all the theorists of the previous four hundred years of modern history. Practice has tested theory and provided a basis for further action such as founders of the Covenant hardly dared to forecast. Failure and disappointment have also shown not only the weakness of the League, but also the limitations of humanity, and have given opportunity, therefore, to find remedies before it is too late. These great achievements we owe to the men who brought the League into existence at the Paris Conference.

<sup>1</sup> J. R. M. Butler in H. W. V. Temperley, *History of the Peace Conference of Paris*, VI, 441.



## **PART II**

# **THE DEVELOPMENT OF THE MACHINERY OF THE LEAGUE**





## CHAPTER IV

### THE LEAGUE MEMBERSHIP

The League was one of the most heterogeneous bodies imaginable, but the very plurality of nations composing it was its soul. Nevertheless, the League had been acquiring a sort of cohesion which an outsider would never understand.

SIGNOR SCIALOJA, 1931

THE League of Nations was based, as has been seen, on the principle of the unity of the whole world. Though conditions were laid down for the adhesion of new members, it was to be eligible for all civilized states in every continent, both the victors and the vanquished of the World War as well as the neutrals and the new states which had come into existence. But in practice this principle had to be applied to the world of 1919. While the British were ready to admit the Germans immediately, the French absolutely refused, and indeed at that time many Frenchmen could hardly tolerate the physical presence of a German in the same room. The League was, therefore, in the first instance confined to the victorious states, which were made original members. At the same time thirteen neutral states were given the opportunity, which all accepted, of joining the League immediately and its universality was thus at once emphasized. Until, however, Germany joined it the League inevitably bore an aspect of specially belonging to the victorious side in the war, though in only one phrase of the Covenant was there any recognition of their special position.

Immediately there arose the question of the admission of states other than those mentioned in the original document. This all-important duty of admitting new members is, by Article I, given to the Assembly, so that all states, great and small, share it equally, and the Great Powers have no special rights. The First Assembly had to face the problem since no

less than fourteen states applied for membership. The wording of the Covenant, which included such phrases as "fully self-governing" and "effective guarantees of its sincere intention to observe its international guarantees," might and did allow much pedantic quibbling. But, under the leadership of the practical men who controlled the raw First Assembly, these were swept on one side, and the question of admissions was by universal consent handled efficiently and wisely. Attempts to make "fully self-governing" mean "endowed with democratic institutions" were rejected, for such an interpretation would have meant an intolerable interference with the internal affairs of the applicants. The League was not to be confined to states with one particular form of government. Had it been made a League of democratic states, as some at one time fondly desired, it would hardly have survived. It accepted the sound doctrine that such matters are the concern of the people of the state in question and not of the outside world. Nor could "self-governing" in its other sense of "independent" be pressed too far. India was certainly not so, and Cuba might have been challenged. These states were, however, original members and had not to pass the scrutiny of the Assembly. The most interesting point was whether enemy states would be allowed to join, and the measure of tolerance reached by December 1920 was shown when Austria and Bulgaria were admitted, though France and some of her special Allies abstained from voting. Time was not yet ripe for Hungary, which did not then apply, but was unanimously admitted in 1922. Before Germany was admitted at the 1926 Assembly the roles were reversed, for she was certainly invited to accede several years before and it was France who insisted (as is related below) on her accepting membership as a condition of the Locarno Treaties. Turkey has also joined the League by invitation. The universality of the League as between victors and vanquished is now fully established.

The most difficult problems with regard to admission were

in respect to the new nationalities fringing Russia in Europe and Asia Minor. Since the permanence of these was doubtful they were all rejected except Finland, but in the 1921 Assembly the three Baltic states were considered sufficiently stable to be admitted. Armenia, Georgia, and the Ukraine were refused because the League was not prepared to guarantee their independence against Bolshevik Russia. There was also a battle over Albania which the Great Powers (who had created it in 1913) did not wish to recognize, but which was triumphantly elected through the championship of some of the statesmen of the smaller Powers. Of later accessions, one of the most notable was that of the Irish Free State, which indeed made entry into the League one of the tests of its "Dominion status."

In 1931 Mexico was "invited" to join the League. A declaration was made in the Assembly that she would be welcomed, which was in effect a recantation of the attitude taken towards her in 1919. To this Mexico made a favourable reply, as already arranged, and was then elected unanimously by the Assembly without recourse to Article I. The same process was applied to Turkey at the Special Assembly of 1932. Iraq having passed through a special régime under the Mandates system, was subjected to exceptional investigation before being admitted at the 1932 Assembly. But this was a special case and in future it is clear that only very weak or backward states will submit to the process prescribed in the Covenant.

Meanwhile the original membership of the League suffered several losses, the most notable being of course that of the United States, which refused to ratify the Treaty or take up its membership. The effect of this on the League has been enormous and has influenced its development more than any other single cause. The organization was challenged at the outset. Its supporters in all countries were dismayed and "realistic" statesmen were given a good excuse to delay the development of the League. The example of the United States also affected other South American states, of whom

several have taken only a small share in the League's work. The Argentine Republic virtually withdrew after the rejection of its pleas for Germany at the First Assembly, but this was due to its own initiative and by no means to the example of the United States. As for Russia the Bolsheviks from the first regarded the League as an enemy. For them it was a League of capitalists and necessarily hostile. This, as later events were to show, was not a valid reason. But the Bolsheviks saw in the League an attempt to stabilize existing conditions which they were determined to undermine. At any rate, it stood for the evolution of a new society without violence, while they were working for a world revolution through class warfare. They heaped, therefore, abuse and ridicule upon it. Not until the League had made itself the centre of international relations did they begin to co-operate with it in any real way.

The total effect of these abstentions and withdrawals has certainly been to make the League more European and less universal than its founders originally intended. Of the forty-five members mentioned in the annexes to the Covenant only sixteen were European, twenty being American, six Asiatic, two Australasian, and one African. After the additions and withdrawals twenty-seven, or nearly half of the total number of its fifty-seven members, are European. But these numbers must not be pressed too closely. Europe has many more states than the more populous Asia, just as South and Central America has twenty states while North America has only two. The "European" character of the League is caused more by the fact that Europe is still the political and cultural centre of the world, that the seat of the League is situated in it, and that it can be more easily attended by the principal statesmen of Europe than by those of other countries. The real weakness of the League lies in the absence of the two Great Powers, Russia and the United States. These two Powers, however, after intervals of real hostility to the League, have drawn closer to it, especially the United States, though they have not accepted

its political obligations. The loss of Brazil (see p. 86), the largest South American state, was not a light one, but it affected the League to a much smaller degree. Nevertheless, the disparity of the numbers of states in the different continents is a fact which makes extraordinarily difficult the creation of a balanced body in which all parts of the world shall have equal confidence. It is true, of course, that the greatest decisions of the League are not made by majority votes. There must be unanimity in both the Council and the Assembly. But matters of procedure can be important, while there are at least two very important pieces of machinery which depend on votes. The election of the non-permanent members of the Council and the election of the Judges to the Permanent Court of International Justice have given both to Europe and perhaps even more to South America opportunities of representation denied to other continents. As will be seen, conventions have grown up mitigating to some extent these anomalies, but they remain and are one of the principal obstacles in the development of a world-wide League. It is only natural, therefore, that some statesmen and publicists should have advocated regional organizations which would ensure the balance of the continents. This scheme had, however, as will be indicated in the next chapter, many disadvantages, and the solution of the problem of balance, which is bound up with the whole problem of equality of states, has yet to be found.

The official languages of the League are French and English, in which all documents are issued, and into which all speeches are translated. Other languages may be used if a translation into French or English is provided. That French has thus been made to share with English the unique position it has held as the language of diplomacy was due to the action of the United States more than to any other cause. The change makes, therefore, not only the Anglo-Saxon origin of the League, but also a new equilibrium in world affairs.

## CHAPTER V

### THE ASSEMBLY

For the first time in history people will hear great subjects discussed on an international platform, and the narrow influence of the local Parliament and still more the local press will gradually be neutralized, and a broader opinion and spirit will be fostered.

GENERAL SMUTS, December 16, 1918

NOTHING illustrates better the immense difference between the conception of the League which was in the minds of its founders in 1919 and the reality which has appeared than the place of the Assembly in the whole organization. It is indeed not yet a stable one, and may radically alter in the course of succeeding years. But the part which it has played in the early years of the League has been one which no one suspected was possible in 1919. This astonishing vigour was in part due to the early weakness of the Council, which is described in the next section, but it was also, as so often in constitutional development, due to the efforts of certain individuals who found in the Assembly a place denied to them in the Council, and also to the surprising success of the public diplomacy which was first put into practice in the larger body.

The Assembly did not meet till November 1920, nearly a year after the League had come into existence. The hesitation was partly due to the situation in the United States, partly to the difficulties of organization, partly to a fear of a fiasco if so large and unwieldy a body met together without result. The Council had been almost continually in session because it had to deal with the duties imposed on it by the Peace Treaties and to set in motion the League administration. But the Assembly was considered by many to be at the best a "talking shop" where the small nations and small statesmen would let off steam, at the worst an opportunity for the ventilation of

grievances, real or imaginary, which would further disturb the troubled sea of international relations. The Council had met in Paris and London instead of at Geneva, and there was an attempt, sponsored by the very able French Deputy-Secretary-General, to get the Assembly called to Brussels, which would have further imprinted on the League the stamp of the victors. President Wilson, to whom the Covenant gave the right of summoning the First Assembly, was faithful to Geneva and there on November 30th it met.

The result surprised even its warmest advocates. Though the Prime and Foreign Ministers of France and Britain stayed away, as they had from the Council, there were distinguished figures enough to make the meeting memorable. Moreover, Lord Cecil had been nominated by General Smuts as a South African delegate, in theory a precedent of very doubtful value, but in practice one of the factors which made the Assembly a success; for Lord Cecil's combination of single-mindedness, enthusiasm, and practical common sense made him the principal leader of the Assembly. Other figures, such as Nansen, Branting, Beneš, Hymans, Motta, worked with similar zeal and understanding. The result was that the Assembly early became a great world forum instead of, as it might have been, and as many anticipated it would be, a captious and feeble body of irresponsible nonentities. It provided the League with a sounding-board, it brought together a number of statesmen who were not eligible for the Council, it acted as a centre for officials and publicists of all kinds. Though the transformation of the Council into a real centre of international affairs has perhaps made the rôle of the Assembly of less importance, it has established itself as the world centre of discussion of the great international problems of the day.

In the Assembly all the states, great and small, are equal. They all have one vote and are entitled to three delegates. This last number was only reached after much discussion, while



the plans for prescribing the character of the delegates were fortunately defeated. The number three was far too small for the principal states, but it has been easily circumvented by the device of substitute delegates. So rapidly has the work of the Assembly multiplied that the Great Powers' delegations now number forty or fifty delegates and experts. They are selected in a variety of ways by the Governments who are responsible to their own people and sensitive to the impression made on other delegations. At the beginning neither Britain nor France nor Italy were represented by their Prime Ministers or Foreign Ministers. Neither Mr. Lloyd George nor Lord Curzon ever attended. Elder statesmen like Lord Balfour, M. Viviani, or M. Bourgeois, together with minor Cabinet Ministers, were considered sufficient. The smaller Powers of Europe, on the other hand, from the beginning saw in the Assembly a great opportunity and tended to be represented by their Foreign Ministers, occasionally by their Prime Ministers as well. This example was followed after 1924 by the Great Powers, when the Prime Ministers of France and Britain, who were also Foreign Ministers, went to Geneva. Since then the Foreign Ministers of Britain, Germany, and France have nearly always been present, with the result that the Foreign Minister of almost every other European country has been there as well.

The other delegates have been chosen upon a variety of motives. Gradually, as the League became more important, there was a tendency for other Cabinet Ministers and Under-Secretaries to accompany their Foreign Ministers. Ambassadors and ex-Ambassadors were used mainly by Powers outside Europe. Men of learning, who in some countries tend also to be men of action, were also employed. Only a few women, and generally not as full delegates, were appointed, but their number and importance have gradually increased.

These delegates were selected by Governments, and the system has often been criticized. It has been suggested that

appointment by Parliaments or popular bodies would make the Assembly more representative of the nations. On one or two occasions, indeed, Opposition leaders have been included in the delegations. But it has been increasingly recognized that one of the causes of the success of the Assembly is that statesmen speak there as responsible agents of their peoples. One of its weaknesses, indeed, is that sometimes they have forgotten too much their limitation and advocated or at least acquiesced in schemes which they knew they could not carry through their own legislative bodies. Moreover, one of the principal advantages of the Assembly is that it brings together those responsible for the conduct of foreign affairs, and enables them to expound their policies before their peers and to discuss them intimately as occasion offers. It is impossible to exaggerate the importance of this great fact. In conjunction with the same phenomenon in the Council it is the greatest contribution of the League to the conduct of international affairs. It is something quite new because though, as we have seen, the statesmen of Europe did occasionally meet together, never before have they met together systematically on neutral ground and with a common object. The result has been that they have been educated in an international outlook more thoroughly than ever before. Indeed they are, for the most part, now in advance of public opinion in their own countries largely for this reason.

The states do not, however, touch at the Assembly only in the persons of their Foreign Ministers. These are now accompanied by large numbers of experts who meet their "opposite numbers" in other countries. Moreover the Assembly attracts many journalists and publicists to study and record its events, and these learn from each other—or some of them at any rate.

It must be confessed that this process applies more to Europe than to the rest of the world. The overseas countries rarely send delegates of the same calibre. They are represented for the most part by Ambassadors or ex-Ambassadors or other

officials, some of them distinguished men, but not responsible for or in touch with the policy of their countries as Foreign Ministers or other Cabinet officers. Canada alone of the British Dominions has been represented systematically on a scale commensurate with Europe, though on occasion the Prime Ministers of other Dominions have paid a fleeting visit. China has often been inadequately represented. The South American delegates have sometimes thought too much of their own personal importance, while statesmen of the United States have, of course, been absent. How important that last fact has been was revealed in 1930-31-32 when the American Secretary of State spent months in Europe at the London Conference or on private visits to obtain the indispensable contacts with the principal statesmen of other nations.

The Assembly meets normally once a year, though on two occasions there have been special Assemblies for a particular purpose. It begins by electing its President, always the chief delegate of one of the smaller Powers, and its six Vice-Presidents, who with the Chairmen of its six Committees constitute its *Bureau* or Executive Committee.<sup>1</sup> It always begins its business by a general debate in a large hall. This is equivalent to the Debate on the Address in the British Parliament. French and English are the two languages almost invariably used and the speeches are translated from one language to the other. Since few men can speak easily to a large audience except in their mother-tongue this is a great handicap to many countries. There have been only a few orators therefore in the Assembly, mainly French and English or men like Hymans, to whom French is a mother-tongue, or great linguists like Motta. There are inevitably many dull moments, as in Parliament, and it has taken ten years to obtain even a moderate stillness for secondary speakers. But on occasion the scene has

<sup>1</sup> Recently the Chairman of the Agenda Committee has also been a member of the *Bureau* and two honorary members were placed on it in 1932.

been one of thrilling excitement. When Viviani, Balfour, Briand, Chamberlain, Stresemann, MacDonald, Grandi have been speaking to an audience of their peers, the galleries and aisles of the hall packed with officials, journalists, and the general public, a deep impression has been made on all who were present and has been in some degree transmitted vicariously to the whole world. Sometimes representatives of the smaller Powers by their personalities have won similar recognition. The "great days" of the Assembly have perhaps been few, but they have been all-important in its evolution as a world forum.

The main work of the Assembly has, however, taken place in its six Commissions on which each state has the right to be represented. Here there can be intimate and detailed discussion of international affairs and problems. In social and economic questions many of the representatives are experts. Mere oratory gets short shrift and practical suggestions are warmly received. There is, of course, much manœuvring and skilful fence in order to obtain a result considered to be most in accord with the interests of the speaker's own country. But there is often also much good teamwork and many of the representatives now know one another intimately and can appreciate and allow for the national bias.

All these meetings are held in public. This also is a new departure in international affairs and has been attended with startling success. In pre-war days almost all intimate discussion between statesmen was in private. It was considered impossible to allow the ignorant and prejudiced public to listen-in to such delicate matters. Diplomacy was a highly technical profession for experts only. Only on occasion was a speech made in some Parliament which was addressed to the whole world as well, and the setting often made the language unpalatable to other countries.

But at Geneva, both in the Council and in the Assembly, the most delicate international problems have been discussed in

public. It was, however, the Assembly which began the practice and has followed it most consistently, largely through the advocacy of Lord Cecil, who has from the first believed that public diplomacy was indispensable to the growth and efficiency of the League. Gradually a new technique has been established amongst statesmen. There is naturally some tendency to hypocrisy and casuistry, just as there is in Parliamentary speaking when party or group interests have to be advocated as national interests. So at Geneva, national interests are clothed in international phrases. But these conventions are easily accepted and the result is that the speakers often seek a reconciliation between national interests and world interests. Their own ideas are indeed sometimes transformed by these debates, and it is not uncommon to see opponents, almost unconsciously, gradually adopting one another's arguments.

At the same time, intelligent public opinion in all countries is educated and informed by the process. Only a minority, it must be confessed, can yet be reached by this means. But it is an important and powerful minority which can sometimes influence the mass, otherwise entirely at the mercy of the sensational Press and the influence of vested interests. While the effect must not be exaggerated, the practice of open debate must be considered as one of the great new forces in international affairs to-day.

There is, of course, also much private discussion at Geneva. The Commissions appoint Sub-Commissions to draft reports and discuss details. There are the even more important private conversations amongst the delegates themselves. But as in Parliament, these are limited by, and subject to, the influence of the public discussions. Thus has been produced the famous "Geneva atmosphere" which is nothing more than the well-known psychological phenomenon of group emotion. The statesmen and experts influence one another through daily contact in a common task. They retain their personal and national idiosyncrasies, but they obtain in addition a new

insight into common problems and a new enthusiasm and impetus towards international co-operation. It is by such group spirit that all institutions have been made strong enough to carry out great tasks. Without its creation by such meetings as those of the Assembly and Council there can never be an international body strong enough to win the respect and obedience of the world.

The Assembly has thus gradually built up for itself a position in which it holds a grand review of the international position. All topics may be ventilated and solutions suggested, but it is recognized that the actual supervision of the League administration rests with the Council. There was at the beginning a tendency for the members of the Council who were also members of the Assembly to suggest that discussion of the Council's work was out of place. But in the question of Mandates and on other topics Lord Cecil and Dr. Nansen and others successfully defended the Assembly's right to discuss "any question affecting the peace of the world." Gradually a *modus vivendi* was established between the two bodies, which became closer as the number of states on the Council was increased, so that more Assembly members had experience of that body.

But the Assembly is not a Parliament which can bring new measures into existence by majority vote. After it has endorsed new ideas they must be submitted to the Governments of the various states for approval. Indeed, anything of great substance must be embodied in a formal treaty or convention which must be signed and ratified. A project is therefore often suspended so that the Governments may send their considered observations in writing for the information of the Council or the next Assembly. A more leisurely debate can thus be carried on, while Governments are conscious that their opinions will be placed by the side of others and the result publicly debated in the Council or Assembly. In this way much valuable information has been gathered, the attitudes of various states clarified, and some misconceptions exposed.

The most important duties of the Assembly are the voting of the Budget, the election of the non-permanent members of the Council and (shared with the Council) the increase of such seats or of permanent seats, and the amendment of the Covenant. The first of these, which is the principal task of the Fourth Committee, should on the analogy of Parliaments make the Assembly the deciding factor in all League affairs. But the analogy does not hold. The most important things in the League do not depend on finance, and while there is a certain amount of control and check through the Budget, the total effect is small. The Budget has already been closely scrutinized by a Supervisory Committee before it is submitted. This Committee is now a permanent committee of the Assembly and the change has been held to make some advance in the Assembly's power.

The other functions partly depend on votes and show how much at Geneva has to be decided in that manner. The elections to the Council are described in the next chapter. There have as yet been only a few changes in the Covenant itself. This is only natural since the States represented on the council, and at least a majority of the states represented in the Assembly, must ratify any amendment.<sup>1</sup> There have constantly been movements to transform the League by amendment of the Covenant, on the one hand so as to clarify and increase

<sup>1</sup> Article XXVI, concerning amendments introduced by Lord Cecil, was hastily redrafted by Mr. Miller, with the result that there was no reference to the action of the Council and Assembly before ratification. It has even been claimed that both must be unanimous, though clearly it was not so meant by the makers of the Covenant. In 1921 an amendment to Article XXVI itself tried to solve this difficulty by making a vote of three-quarters of the Assembly, including the members of the Council, the necessary preliminary to ratification. It also laid down that if the ratifications had not been obtained within twenty-two months the amendment would fall to the ground, and that a member which disagreed must exercise its right to withdraw from the League within a period of twelve months. This amendment, however, failed to receive the necessary ratifications and the situation has never been completely clarified to the satisfaction of the lawyers.

the obligations of its members, on the other to restate them so as to conform to the situation produced by the absence of the United States, the former proceeding from the European members, the latter from the overseas members. Fortunately, both have failed and the system set up at Paris still endures, except in so far as it has been modified by interpretation, by practice, or by new instruments to meet special situations such as the Locarno Treaties. It must be admitted, however, that the Assembly has been perhaps too receptive to proposals to amend the League's constitution, and the celebrated international lawyers, who are always present, have spent many happy hours in analysing the exact nature of some of the clauses. Some of the new proposals raised problems of the greatest magnitude, which are still unsolved. They are described in the next Part. But these proposals failed to secure the ratification of sufficient members, and the only amendments which are yet in force deal with procedure. The result has been to tend to enshrine new ideas in separate instruments such as the Locarno Treaties or the General Act, a far wiser proceeding since they add new resources without the necessity of digging up the foundations of the whole structure. Nevertheless, the debates which have taken place at Geneva on Articles X, XVI, the Protocol, and other proposals have been of great importance in clarifying and determining the attitude of the various nations towards their obligations.<sup>1</sup>

The main purpose of the Assembly, however, has been to act as a place of general conference where all nations could exchange ideas on international questions of all kinds, thus enlightening both the statesmen and their peoples and giving

<sup>1</sup> "Every month that passes shows more conclusively that the Covenant in itself was a work of true human genius. The great problem of to-day is not to improve its provisions but to ensure that the governments shall give them the full and complete application which they merit and which the condition of the world demands." P. J. Baker in Munch, *L'origine et l'œuvre de la Société des Nations*, 31. Perhaps a partial estimate by one of Lord Cecil's secretaries at the Conference.



an impetus to the whole work of international co-operation. This work it has performed admirably. It is not too much to say that this unexpected success did much to carry the League through the difficult years immediately succeeding the war when its prestige was suffering from the withdrawal of the United States, and when neither Britain nor France was yet prepared to use it to the full. When statesmen came into power in those two countries anxious to increase the prestige of the League they turned naturally to the Assembly and made it their platform. The failure of the Protocol dimmed this prestige somewhat, but it was restored by the entry of Germany into the League and the striking scenes which followed it.

As the Council has grown more important owing to the same factors it may be held that the Assembly has declined in influence. Its position was also threatened by two other developments of the last years, the growth of special Conferences and the project of a European organization inside the League. The first was, however, a necessary development, for the Assembly was unfitted to deal with technical questions which necessitated prolonged debates by responsible Ministers and experts. Labour questions had from the outset been removed to the International Labour Organization. The fundamentals of financial reform had been laid in the special Brussels Conference. The Economic Conference of 1927 was designed to achieve the same ends in production and distribution. Armaments, though always discussed in the Assembly, could not be finally thrashed out there. Such subjects as transit, opium, and health needed special Conferences of their own. But all these special Conferences except the first grew out of discussions in the Assembly, were financed by funds voted by it, and were managed by the League Secretariat. Their successes or failure can be debated at the Assembly and new projects set on foot, if they fail, as they often must do, since they are tackling the most deep-rooted and difficult problems of international society.

They are thus in no sense rivals of the Assembly, as the Genoa Conference was perhaps meant to be, and the failure of which was therefore in some ways a blessing. There have always been advocates of a series of special Conferences dealing with specific subjects as a better method of conducting international affairs than the regular meetings of a body like the Assembly itself. But the experience of the last twelve years has shown that, important as such Conferences are, there is no substitute for that continuous general contact and review which only a regular body like the Assembly can give.

Nor can it be said that the ambitious scheme, with which M. Briand's name came to be specially associated, of setting up a European Committee has so far justified the hopes of those who believe in regional organization as a solution for the League's problems. The idea which was adumbrated in Article XXI had been long advocated by various bodies, of which that known as Pan-Europa was the most determined and successful. It caused a good deal of surprise, however, when M. Briand showed a favourable attitude towards the scheme in his opening speech at the 1929 Assembly. The reception was not enthusiastic, but M. Briand, after elaborating the idea in a luncheon speech, obtained authority to explore its possibilities, and as a result France adopted it officially in a Memorandum of May 17, 1930. This was a rather immature document, which would have set up the European organization, modelled on the League but altogether outside it, with a Conference, a Council, and even a Secretariat of its own. Political aims such as the extension to all Europe of the Locarno system were placed first, and then a number of objects were suggested which were merely a list of what the League was already doing.

This scheme met with general criticism from the twenty-six Governments to which it was submitted, practically all insisting on the necessity of safeguarding the League. At the 1930 Assembly it was perhaps only M. Briand's personal position

that enabled the proposal to be treated seriously. He succeeded in submitting his ideas to a Conference of the European states, but the British representative secured unanimous support when he insisted that it must also be discussed by the League itself and find a place inside and not outside it. Eventually, the "European Commission of Enquiry," as it was called, was organized as a Commission of the League to which European non-members and even non-European members might be invited. It used the League Secretariat and was entirely subordinate to the main organization.

During 1931 it met three times and dealt with the economic questions which, as is explained in Chapter XIV, the League's other organizations had totally failed to solve. Iceland, Turkey, and Russia were invited to take part in these discussions and M. Litvinov was thus given another opportunity of a position from which he could carry on his propaganda against the Capitalist League. It set up so many Commissions and Sub-Commissions that a Co-ordinating Commission was considered necessary also. They failed to do anything of value, merely reproducing the deadlocks on which the other economic Committees had foundered.

The meeting of the European Commission previous to the Assembly of 1931 was thus a mournful one. It had no progress to report and was used as the place of penitence, when Germany and Austria, now in desperate financial straits, withdrew their scheme of an Austro-German Customs Union in deference to the insistent pressure of France. M. Litvinov enjoyed himself immensely with a proposal for a Pact of Economic Non-Aggression which nobody wanted and nobody knew how to suppress. Since then the Disarmament Conference and the Special Assembly of 1932 have thrown the regional organization into the background, though one of its Committees has done important work at Stresa on the economic position of the Danubian states.

The scheme was indeed both ill-considered and brought

out at the wrong time. There may yet be a place for regional organization inside the League. But the economic problems which are now so prominent are world wide. The continents are only, superficially, areas, which can easily be adapted to regional schemes. Even the Pan-American Conference, though the United States, and now Brazil, are not members of the League, has been unable to create any very real system of political and economic co-operation, though it has done much good work in minor matters. On some points, especially, perhaps, in the present position of technical development, aviation, the continent is a geographical area with a common interest. But most of the great problems of the world transcend continents, as even the United States has admitted in recent years, and found it necessary to use the League machinery. The British Commonwealth, moreover, extends over all the continents, and Britain will not emphasize her European position more than she has already done at the expense of her connection with the Dominions, while without her Europe has so far hardly been able to keep the peace, let alone organize itself. Thus, though there may yet be further experiments, it does not seem likely that the world-wide organization, which the Assembly expresses, can be dispensed with, unless there is a complete upheaval of international life.

In 1932 the Assembly was associated with the work of the pacific settlement of disputes hitherto the province of the Council. This development is discussed in the next Part but it should be mentioned here that its rather unexpected efficiency in this capacity has tended to increase its reputation and secure its position as the principal organ of the League.

## CHAPTER VI

### THE COUNCIL

The value of any International Council depends firstly on the intelligence which it is likely to possess, and secondly on the degree in which it is really representative.

C. A. FYFFE, 1880

IN contrast to the Assembly, the Council was early in its conception regarded as the principal organ of the League. In two capacities, both as a mediatory body for the settlement of disputes and as an administrative body for the furtherance of international co-operation, it was made the centre of the League machinery. As has been seen, Lord Cecil at first wished it to be composed of the Great Powers only. He advocated this restriction so that the Council might be at once a reality, being representative of those Powers which had the main responsibility for world peace, and the resources necessary to maintain it. It would in that case have been more obviously a successor to the "Supreme Council" which had decided the great transactions of the war and the peace.

The attitude of the small Powers, supported by General Smuts and, after some hesitation, by President Wilson caused this plan to fail. Lord Cecil then agreed that two and subsequently four of the smaller Powers, which were to be elected by the Assembly, should be represented on the Council. Since the Great Powers represented were expected to be five, the small Powers would thus be in a minority of one, a point considered at that time of great importance.

Because the words "Great Powers" cannot even now be used in official documents, the permanent members were in the original draft specified by name. But the drafting Committee of the Treaty (not of the Covenant itself) altered this phrase to the one used elsewhere in the Treaty: "the Principal

Allied and Associated Powers," a term by which the five Allied Powers were usually designated.<sup>1</sup>

Since neither Germany nor Russia could enter at once, a clause was introduced to allow of other states being given a permanent seat on the Council. Again the phrase "Great Power" could not be used, but there is no doubt that it was meant for them exclusively. The ambiguity was to cause great difficulty at a later date. Provision was also made in the Covenant for an increase of the number of non-permanent seats for the smaller Powers, apparently with the idea of maintaining the balance if the number of Great Powers in the Council was increased. Four were specified by name as the original representatives—Brazil, whose prestige the United States had consistently supported at Paris; Spain, the largest of the European neutrals; Greece, because of the personality of Venizelos; and Belgium, a victim of the war, who was now receiving special regard and honour.

Since the United States withdrew, the number of the Council was reduced to eight. In this form it held no less than eleven sessions in the first year of the League's existence, 1920. It was significant, however, that none of these, except the last two during the meeting of the Assembly, were held at Geneva. Moreover, the meetings were not attended by the principal statesmen of France and Britain, who preferred to use a body which still arrogated to itself the title of "Supreme Council." This was in part necessary since the subject of Reparations, still under discussion, had been excluded from the League, while the territorial settlement of Eastern Europe had not yet been decided. But the lukewarm attitude of men like Mr. Lloyd George and Lord Curzon towards the Council impressed public opinion, and it was not considered as the

<sup>1</sup> Italy at the time threatened not to sign the Treaty because of the dispute over Fiume. She would in that case not be one of the "Principal Allied and Associated Powers" as defined in the Treaty, and thus have no right to be a permanent member of the Council.

main instrument of international intercourse nor given much authority. It was mainly concerned in minor matters and the details of the organization of the League itself. Nevertheless, in the hands of Lord Balfour and M. Bourgeois it gradually acquired a system of procedure and a certain *esprit de corps*. It may be that it would have developed less successfully had it been made too prominent at the beginning of its career.

It was, however, considered by many as a weak organ, far too subservient to the interests of France and Britain, and these ideas were ventilated in cautious language by the more zealous advocates of the League in the First Assembly. The Assembly, as has been seen, vindicated its right to discuss all international affairs, including those specially in the sphere of the Council, and the fact that the smaller body might be subjected to such criticism affected its conduct in the succeeding years. Its prestige was raised by the reference to it of the problem of Upper Silesia which the Supreme Council had failed to solve, though the actual decision was naturally subjected to great criticism in Germany and in Britain. Throughout 1922-24 the Council's work in financial reconstruction and its intervention in disputes continued to raise its status. But the great questions of international politics—Reparations, which culminated in the Ruhr invasion, which the League was powerless to prevent or even criticize, and Occupation—were outside its control. Nor did the Italian attack on Corfu, though the worst dangers were avoided, strengthen the belief in its power, though the incident showed how greatly public opinion in Europe, especially in the smaller states, desired to find through the League protection and leadership.

In 1924 came, however, a change in the outlook of Europe. Reparations were for the first time placed on a more sensible footing by the Dawes Plan, and the two new Governments of France and Britain, under M. Herriot and Mr. Ramsay MacDonald, attempted to make the League the centre of international relations. Though, as is related elsewhere, the grandiose

plan of the Protocol collapsed when British support was withdrawn by the Conservative Government, the discussions had revealed how great was the desire for the increase of the efficiency of the League machinery. Sir Austen Chamberlain, the new Foreign Secretary, responded to the desires of Europe in two ways. On the one hand he began the negotiations which resulted in the Locarno Treaties, which, in a manner he had scarcely at first anticipated, resulted in transforming the position of the League by the entry of Germany. Secondly, he attended the Council of the League himself as well as the Assembly, and, as his example was followed by M. Briand, the French Foreign Minister, the Council now became the natural place of meeting of European statesmen. The process was completed when Germany entered the League and her Foreign Minister took his place at the side of the others. With the all-important exception that there was no representative of the United States, the Council had thus at last become the machine it was meant to be by the founders, and its prestige continued to grow from that time onwards.

Meanwhile its numbers had been much increased and the entry of Germany had led to a crisis in its career which at one time threatened to destroy all the progress which the League had made. While the intensity of feeling aroused showed how much a seat on the Council had now begun to mean, it also revealed the great difficulties that lurked in the ambitions of nations and persons to secure their position in what was now a fundamental part of international life.

By the terms of the Covenant the Assembly was to elect the four non-permanent members "from time to time in its discretion"—"librement" according to the French text. These words had been inserted to satisfy the demand that the non-permanent members should be its free choice and not dictated by the Great Powers. The Assembly asserted its discretion by substituting China for Greece (deprived of M. Venizelos and prestige) at the First Assembly. Other small Powers naturally



aspired to be represented. The Latin-American states, so strong nominally in the League, chafed at being represented only by Brazil. The states of the Little Entente were anxious to find a place. Slav civilization was unrepresented. Demands immediately arose for an increase in the number of seats and rotation of place after a term of years. The first demand was provided for in the Covenant, and in 1922 two places were added, though there were misgivings on the part of some of the smaller Powers as well as of Britain lest the Council become too large. Sweden and Uruguay were thus added to the other four states in 1922, the neutral character of the Council being thus strengthened by the presence of Mr. Branting, the Swedish statesman, who had already made a reputation in the Assembly. But the second change it was found impossible to institute. According to some lawyers, it was impossible to fix the terms of service of the non-permanent members and thus ensure rotation without an amendment to the Covenant. After resolutions in favour of rotation, three years being most often mentioned as a suitable period of office, had been carried, an amendment enabling the Assembly to fix the term of office and the regulations for re-election was passed unanimously. But before it could come into effect it needed ratification by all the Powers on the Council. Two of these failed to give it—France and Spain—because they had plans for a fundamental change in the character of the Council which the adoption of the amendment might destroy.

For, as early as 1921, Spain had secretly put forward in the Council a claim to a permanent seat. Strangely enough it had received the assent of Britain as well as France. The reasons of the latter were obvious enough, for Spain was a Latin Power represented by its Ambassador at Paris, Sr. Quinones de Leon. Lord Balfour's motive was due to the fact that he was afraid a peremptory refusal would drive Spain out of the League. Spain, however, did not obtain her desire; for the votes of all the members of the Council were necessary before such a

proposal could be made to the Assembly, and Brazil refused her assent unless she, too, were given a permanent seat. This, as partly also Spain's claim, was due to personal ambition—in this case of the Brazilian representative, Sr. Mello Franco—but Brazil had even less claims than Spain and the other Powers refused assent. All this negotiation was kept perfectly secret not only from the public but from all but a handful of officials and statesmen. In the Second and Third Assemblies Señor Augustin Edwards, the representative of Chile, had advocated the claims of Brazil and Spain to permanent seats, a *ballon d'essai* which evoked little response.

The only change, therefore, in the constitution of the Council was the substitution of Czechoslovakia for China in 1923. This was not only a tribute to M. Benes, the Foreign Minister of Czechoslovakia, but also the recognition of the fact that the Peking Government no longer represented China. It increased the European aspect of the Council, in spite of the fact that resolutions, moved by the Chinese representatives and supported by those of Persia and India, that other continents should receive due recognition, had annually been approved by the Assembly. But this pious wish was neglected in practice. In 1924 the Assembly was absorbed by the Protocol. In 1925 it was known that the entrance of Germany was imminent. The reorganization of the Council, long overdue, would necessarily become a practical question when Germany received the permanent seat which she naturally expected and for which the Covenant had established the procedure.

Her entry, in fact, produced an explosion which almost reduced the League to impotence. She had secured from each of the Powers on the Council a promise to vote for her permanent seat, though that of Brazil was vaguely expressed so that it could later be interpreted to suit her own policy. When, however, the Locarno Treaties had been signed and the time came for the admission of Germany to the League, for which a Special Assembly had been summoned in March 1926,

the secret manœuvres of France, Spain, and Brazil came into the open. Poland was also added to the claimants for a permanent seat, not only for her own prestige, but because some Frenchmen thought that France must have her most important ally at her side when she sat round the Council table with Germany. Britain was bound to Spain by her promise of 1921 (repeated by the new Conservative Government, though the Labour Government of 1924 had repudiated it). Spain could not stand alone since Brazil insisted on her own claims before she would give assent. The attitude of Paris and Warsaw seemed to show that an attempt was to be made to fix the "Allied" character of the Council before Germany was admitted to it. In these circumstances it was only natural that Germany should refuse to allow other permanent seats on the Council to be created before she took her own. Her attitude was supported by public opinion in most countries not dominated by French influence, and in Britain almost unanimously, despite the action of the Government with regard to Spain. The result was the abortive Special Assembly of March 1926, when the German Chancellor and Foreign Minister waited in vain at Geneva for these difficulties to be composed, and the members of the Assembly remained in impotent inactivity while the "Locarno" Powers and the Council members in informal and secret meetings endeavoured to find a solution of their difficulties. The methods of bold publicity and open discussion were abandoned for subterranean negotiations, and though many of the smaller Powers deplored this state of affairs none were sufficiently bold to obtain the ventilation in the Assembly of the whole situation. The prestige of both Assembly and Council suffered thereby.

Even then, however, a compromise was arrived at amongst the European Powers, which would have allowed Germany to take her seat. Spain had never proposed to veto Germany's claim, but only threatened her own withdrawal from the League. The French, whose leader, M. Briand, had already assured

the Germans that he deplored the situation and admitted that a mistake had been made, were ready to accept the election of Poland to a non-permanent seat, while Holland was to be added at the same time to preserve the political balance. Sweden, whose determined opposition to an increase of permanent seats, except to Germany, in the face of the pressure of the three Great European Powers, had been warmly applauded in Britain and elsewhere, and Czechoslovakia offered to resign their seats to facilitate this compromise, which Germany accepted.

But at the last minute the veto of Brazil against Germany's permanent seat caused the failure of the scheme. She stood alone against the unanimous wish of the other members of the League. But legal right was on her side, and neither her representative, Sr. Mello Franco, nor her Government could be moved by the urgent appeals made to them from every quarter, while public opinion in Brazil, too remote to appreciate the issues involved and moved mainly by the consideration of its national prestige, supported its representatives. This check threatened to disappoint all the hopes which the Locarno Treaties had raised. But the German statesmen, Luther and Stresemann, and public opinion in Germany, took a remarkably clear and reasonable view of the deadlock, and the fact that a compromise had been reached so far as Europe was concerned mitigated the result. But the problem still remained. The whole question of the increase of permanent and non-permanent seats of the Council had obviously to be settled before the 1926 Assembly met, if the League was to continue its work.

The Council therefore appointed a Committee of the states members of it to which were added representatives of China, Poland, Argentine, and Switzerland. Those designated by the Governments to serve on this Committee fortunately included a number of devoted and practical men who had had experience of the League's work since its inception. Lord Cecil represented Britain, M. Paul-Boncour France, Senator Brouckère

Belgium, Signor Scialoja Italy, and M. Motta, who became chairman, Switzerland. It was to Lord Cecil, however, more than to any other man that the Committee owed the remarkable success of its work. It was he who insisted on the publicity of the sittings which he defended in remarkable and incisive language, supported by the independent and efficient Chairman, M. Motta. It was he also who brought before the Committee the substance of the plan which was ultimately adopted by it and subsequently by the Council and the Assembly. By this scheme Germany alone was to receive a permanent seat, a course which, Cecil insisted authoritatively, corresponded to the intentions of the founders of the Covenant. But the number of the non-permanent seats on the Council were to be increased to nine, the period of office being three years, after which for three years the holder was ineligible for re-election. By this means that rotation of office for which the Assembly had often expressed a wish would be secured. But a number not exceeding three of the holders of the seats could be declared re-eligible by a two-thirds vote of the Assembly, thus creating what might be termed "semi-permanent" seats. The larger secondary Powers, such as Spain, Poland, and Brazil, would by this means be able to retain their seats on the Council so long as they retained the confidence of the Assembly. This device corresponded to the reality of things; for there was an obvious difference between such states and the smaller ones, inferior in population and prestige. By this means it was hoped to keep them in the League while at the same time avoiding the creation of permanent seats which could never be taken away from them. This satisfied nearly all the members of the League. Brazil and Spain, it is true, refused to accept the compromise and withdrew from the League, though the latter resumed her seat before the two years' notice was up. A number of small Powers were also critical, disliking both the large increase of seats and the creation of the semi-permanent seats. But all the Great Powers and the vast majority of the smaller Powers accepted

the scheme, which was easily passed with only some alterations in detail through both the Council and Assembly. The increase of seats had been accompanied with a promise to increase the South American representation to three and more vaguely to take account of Asiatic intentions. As France and Spain had now ratified the amendment to Article IV giving the Assembly power to fix the new rules, no legal obstacle stood in the way of their adoption.

Thus Germany was unanimously elected to the League and to a permanent seat on the Council, and her representatives took their seats amid scenes of notable enthusiasm. A few days later the elections to the Council took place, three being elected for three years, three for two years, and three for one. There was even more manœuvring than usual, and it is significant of the discussions and bargainings by which these elections are carried out that it was possible before it took place to determine accurately which states would be elected to the various categories. The increase of members enabled the Council to represent the states of the world much more completely. It also enabled a species of regional representation to be carried out, though this is not enshrined in any regulations. The increase of Latin-American to three, and the addition of an Asiatic state, emphasized the world-wide character of the Council. The representation of the Little Entente and of the group of northern states was also assured. These characteristics have been followed in all subsequent elections.<sup>1</sup>

Poland was immediately made re-eligible by a vote of thirty-six out of forty-eight states voting, and her claim was again supported in the 1932 Assembly by forty-one votes. When Spain returned in 1928 she received the same privilege.

<sup>1</sup> The representation of Groups has made it impossible for some states outside them, including Greece, Bulgaria, and Portugal, to be represented on the Council, and in 1932 the Council, as a result of a motion by Lord Cecil's in the 1931 Assembly, appointed a Committee to review the question from this aspect, but it had no report ready for the 1932 Assembly.

China, however, failed to obtain similar recognition in 1928 and was replaced by Persia, being, however, re-elected in 1931. Only the disorders of the country and the weakness of her Government prevented her from obtaining a position to which her size and population obviously qualify her. As it was, all the Great Powers supported her claims in 1928, but the smaller Powers were jealous of depriving their number of a possible seat and thus delaying rotation. Belgium was also refused re-eligibility, and it is probable that the third semi-permanent place, still open under the rules, will not be filled for some time.

Another development of later years was the election of a British Dominion to a seat on the Council. As has been seen, this right was carefully safeguarded at Paris by Sir Robert Borden, but for many years it was held by many League members that it ought not to be exercised. It was Ireland who first posed as a candidate, but it was Canada who in 1927 received the support of the other Dominions and was easily elected. Her own fine independent record had made her presence on the Council welcome, and it cannot be said that the Dominions are, in fact, any less independent of Britain in their actions than some other Powers are of France. Ireland followed her in 1930, reducing the non-European members by one. When Canada sat on the Council six of the fourteen seats were non-European and Britain sat there as representative of her Empire, so that almost half of the Council represented the other continents.

Thus the Council has gradually established a representation which accords fairly well with the facts of the world to-day. Its larger numbers have not, in fact, impaired its efficiency, and the unanimity necessary for decisions has been as easily forthcoming as before its enlargement. Two detrimental results may perhaps be detected. There has been a tendency for an inner group to develope, or at any rate some observers have thought so, and the authority and prestige of the Assembly

was perhaps a little dimmed by the Council's increase of numbers. But both of these tendencies have been limited in action and the gain to international harmony by the more frequent meeting of a number of statesmen has been great. The only loss to the League has been Brazil, and the return of Spain has satisfied the numerically large Spanish group in the Assembly.

The Council's meetings tended to decline in number after the Foreign Ministers regularly attended them. They were a heavy charge on the time of men whose duties nearly always exceed in bulk and intensity those of most of their colleagues. With attendance at the Assembly and three other sessions of the Council they had to spend nearly two months of the year at Geneva. Two sessions of the Council, one of the old and one of the new body, take place while the Assembly is meeting. In 1930 the number of sessions was reduced by one. The institution of the European organization has also increased the strain on the Foreign Ministers, but this is not yet a permanent part of international machinery. The year 1931-32 was altogether abnormal, for, owing to the Chinese question and the Disarmament Conference, there was almost a continual session at Geneva.

The Council's duties are mainly two—mediatory and administrative. Its duties under the first head are described in Chapter IX. But the Council is also the principal administrative body of the League. It supervises the appointments of the Secretariat. It appoints many of the special Committees or allots their representation among the states. It receives their reports and decides what action shall be taken on them. It prepares the Agenda of the Assembly. It is responsible for the delicate and all-important Minorities questions for which it has set up special procedure. It receives the report of the Mandates Commission, and, if necessary, comments on its findings or allows Governments to reply to strictures. It also receives the reports of the various Committees which have been set up to deal with the many subjects which



are now dealt with through the League described in Part IV.

In most of these cases it accepts the report of the experts who have made, in conjunction with the Secretariat and other bodies, a prolonged study of the problems submitted to it. But sometimes matters of high policy are involved and important political considerations have to be taken into account and decisions made on which the members of the Council take a grave responsibility. Thus, though there is much of a routine nature in all that part of the Council's work which deals with international co-operation it is essential that it should control in the last resort the decisions of the various bodies that deal with it and take the final responsibility for their work.

Two special pieces of administration were also given to the Council by the Treaties. It appoints the Commissioner who adjusts the relations with Poland of the little state of Danzig, which was set up when the German town was separated from Germany by the Treaty of Versailles. Since Poland had rights in the port, and the situation was fiercely resented by the citizens of Danzig, the Council has had to spend long hours in listening to complaints and endeavouring to adjust differences. Both Poland and Germany are now members of the Council and a good deal of experience has produced many governing precedents, so that these duties are now less tedious.

The Council is also responsible for the government of the Saar Territory under the special régime which was set up by the Peace Treaty so that France might have the coal of its German mines as reparation without exercising sovereignty over the inhabitants. This problem also in the early years was a very thorny one, but gradually the governing Commission was transformed into an impartial body, owing much to the two Canadians who served on it, and the Council has ceased to be troubled by it.

The great value of all the administrative work is that it enables the statesmen of the various countries to work together

on common problems and thus obtain something of that same group feeling which is apparent in the Assembly. The success of the Council in the financial reconstruction of Austria, for example, not only enhanced its prestige, but increased the confidence of the members in one another and the value of their work. The personnel of the Council necessarily changes frequently in spite of the fact that seven states are continuously represented, while the others take turns of three years. But fortunately, the creators of the Locarno Treaties—Briand, Chamberlain, and Stresemann—were enabled to remain members continuously for a considerable period, and the confidence which grew up between them was a great asset to the Council as a whole. Only in recent years has the Italian Foreign Minister attended, since Signor Mussolini was for long Foreign Minister and he could not leave Italy. But the increased interest which Italy began to show in the League and the difficult problems she has to settle, especially with France, made the new contacts possible through the League Council of great importance, and it is unfortunate for this purpose that Signor Mussolini has resumed his old position.

The Council has not been so faithful to the doctrine of publicity as the Assembly. In the earlier years its public meetings were purely formal and devoid of interest. But gradually it learnt courage and the technique of open diplomacy. The first really open meeting of the Council was that in September 1921 to deal with the Polish-Lithuanian dispute. It was Lord Cecil who persuaded Lord Balfour that this course was necessary, and the result justified expectations. Lord Cecil also used the weapon of publicity during the Corfu crisis with great effect. Since then public meetings have been increasingly frequent, and, while many of them have been staged, i.e. the results of the meeting and what each delegate would say have been known beforehand, at others there has been a real negotiation in public. In some cases this has affected the result considerably, and in all it has educated and enlightened public opinion.

It would, of course, be dangerous to give the Council the aspect of a place of contest where nations scored points against one another. At times, for example, comment in the German and Polish Press has tended to take this point of view. But their statesmen have nearly always risen above this conception and the intervention of other members has stressed the common interests of Europe and the necessity for compromise and co-operation.

The Council has often had to spend much time in considering details which hardly seem worth the attention of such an important body. In administrative matters the *rapporteurs* which it appoints on each subject, aided by the skilled experts of the Secretariat, pass the routine rapidly through the necessary stages. But in disputes where national susceptibilities are concerned, much tedious ventilation of essentially small points has had to be endured. In the conflicts between Poland and Germany and Danzig and Poland, and in the complicated case of the optants between Hungary and Roumania, the Council has patiently endured hours of the most tedious exposition of complicated detail. But the time has not altogether been wasted since the outlet thus given to personal and national emotion through a temporary increase of self-importance has undoubtedly contributed to the successful issue of these disputes. Nevertheless, as the administrative work grows in importance such waste of time is grudged and the institution of regional Committees has been suggested as one of the remedies.

Viewed as a whole the Council is now a fairly satisfactory machine to be the principal organ of international action. Confidence in its efficiency and judgment has greatly increased. There can be no doubt that in any great political emergency a great mass of public opinion in all countries turns towards it as the best hope of salvation. It has developed a technique of language and method which has enabled agreement even on the most difficult questions to be more easily reached than at any other period between independent Powers. It is able to

focus the public opinion of the world on an obvious malefactor. It has been armed with powers which increase its efficiency and rapidity of action. Every improvement in transport and communication makes it more easy for it to have the swiftness and certainty of action which an executive body needs.

But it has in no sense developed into the executive organ of a super-state. Unanimity is still necessary for all its important actions, except that under certain conditions recommendations can be made without the consent of the parties to a dispute. This means that any drastic proposal can only be secured by the agreement of the great majority of its members. The Great Powers have thus each a permanent veto on all such action, and if they disagree, compromise and perhaps inaction is inevitable. Nine other states representing the smaller Powers must also agree, and if they are united, their strength is very great. Never before in world history have states as small as Salvador or Norway been placed in such a position. But the smaller Powers are in fact much influenced by the example of the Great, and, while some of them are very independent, others depend on one of the Great Powers to a large degree and would find it difficult to disagree with it on an important question. These facts make both the settlement of disputes and the progress of international co-operation depend on the growth of a large body of public opinion in many different countries.

## CHAPTER VII

### THE SECRETARIAT

Absolute impartiality, tempered by the spirit of research, by objective study, by the practice of true internationalism—that is to say, in no way excluding in any of those who take part in the great work of the League the love of their own country.

*Lord Balfour's Report, 1920*

THERE has for long been in existence various forms of international secretariats. The international public unions which existed before the war had their bureaux of various kinds. But these were small bodies confined to some special purpose. When a political Conference took place a special secretariat had to be created, which dissolved at the end of the meeting, so that the experience of its members was largely dissipated and lost.

During the war the idea of an international secretariat gained great force by reason of the group of officials attached to the various inter-Allied committees. The Secretariat of the Supreme Council was, however, no more than the bringing together of a number of national secretaries, and even the staff of the Versailles War Secretariat retained its national grouping. Had Sir Maurice Hankey become Secretary-General the staff of the League would probably have consisted of detached national units; co-ordinated together, it is true, but encouraged to retain their national basis.

From the first, however, the first Secretary-General, Sir Eric Drummond, took an entirely different point of view, and he received warm support in the Council, which had the responsibility of laying the foundations of the Secretariat. It was he who drafted the famous memorandum of Lord Balfour, which laid down that the Secretariat should be an international body and not a mere collection of national groups.

He was faithful in the face of great difficulties to this idea, and the Secretariat became an international body, whose members, so long as they remain members, are called upon to submerge their nationality in loyalty to the League itself. They do not merely represent their countries in the League Secretariat in the same way as delegates represent their countries on the Council and Assembly. They are endowed with a new status as League officials and are given a position which removes them from national control and places them in an independent position subordinate only to the Secretary-General, and through him to the Council which appoints and the Assembly which pays them.

The conception, while not entirely novel, was quite new in the scale and importance in which it was attempted, and it had great obstacles to meet. Each country was anxious to be represented in positions which might exert such great influence over international events of primary importance, and the existence of a number of fairly highly paid posts which carried considerable distinction and attractive and interesting duties appealed to personal ambition and the instinct for jobbery which is found amongst all nations.

Fortunately, the war had already provided a number of personalities whose experience gave them an inevitable claim to high position. Though Sir Eric himself was a diplomat he made no attempt to draw his principal subordinates from *diplomats de carrière*, a fact which did not tend to make him popular with the services of some of the Great Powers. The men placed at an early stage in key positions, such as M. Monet, the Deputy-Secretary-General, inevitably a Frenchman, Signor Attolico, the Italian Under-Secretary, Sir Arthur Salter, the Director of the Economic and Financial Section, were none of them diplomats, but all had shown their capability for international service in the course of the war. Their principal subordinates were chosen on similar lines, and men were found who really believed in the League and were ready

to give to it that devotion and service which money and even opportunity of power cannot alone command.

The result was to create a Secretariat which despite many criticisms won the confidence of most of the members of the Council and the Assembly. Since these latter were only present for short intervals at Geneva and were constantly changing, the Secretariat soon had that power which comes from a more complete possession of the facts than anyone else. Since they did not abuse this position but placed their knowledge unreservedly at the disposal of all who came to Geneva they won an influence which was of the greatest importance in the development of the League. For they tended mainly to place the interests of the international body first. The fact that they were constantly mixing with men of various countries and languages made them adept at stating cases from various points of view and they could thus help to adjust national prejudices to international policies. Most of them knew foreign languages better than most of the delegates, and they were thus able to act as intermediaries in discussions of great importance which gave them insight into the policies of the various states.

The first Secretary-General himself had a large share in establishing the prestige of the Secretariat and that confidence in it which most of the principal statesmen who have worked at Geneva have shown in it. From the first it was clear that he was completely independent of his own Government and that international interests were his sole aim. He secured the confidence of his subordinates, and his own reserve and reticence served as a useful example to them, while he was able to use to the full the more volatile qualities of some of his more subtle and active-minded subordinates. That he was a Catholic by religion was balanced by the fact of his race. He made no attempt so far as was observable to impress his own conceptions on the development of the League. He carried the best traditions of the British Civil Service to the service of the

new international body, while he allowed his colleagues to use their own methods. He kept in the background when great decisions were afoot, however much his advice was at the disposal of those who sought it. Only once, in the crisis of 1926 over the permanent seats, did he depart from this attitude in such a manner that it could be generally observed, and this excursion into a more prominent activity on behalf of Spain's candidature was not a success.

The Secretariat, though generally commanding confidence, has, however, since its inception been subjected to serious criticism, and various difficulties have arisen which have militated against its full success. Even now its future is by no means settled, and it has already undergone transformation in various ways. In the first place, there have been so many changes in personnel that the continuity of tradition and knowledge has been seriously threatened. From the first the Assembly refused to make permanent the appointments of the higher officials. For this there were good arguments, since it was undoubtedly of advantage that different countries should share in them, and there was bound to be more change in an international than in a national Secretariat. Many members of the Assembly were, however, influenced by other motives. They were afraid of creating a too powerful vested interest, and desired to keep the possibility open of appointments for their own nationals. In particular some of the smaller Powers protested against the fact that the principal officers were designedly drawn only from the Great Powers. Service in the League also gives a man an experience and contact with world forces which makes other positions easily open to him. The salaries paid by the League were not high when the nature of the appointment and the fact that it involved expatriation were taken into account. No wonder that some members of the Secretariat left for more permanent and more highly paid positions. There was a risk that only those would be left who were not good enough to obtain places elsewhere. This



was avoided by the refusal to renew appointments and by the devotion of other members who could easily have obtained other posts. Thus, though there were many changes in the first ten years of the League, the continuity and *esprit de corps* were maintained.

A second danger was the pressure of Governments to obtain the appointment of officials congenial to them from amongst their own nationals. It is, of course, necessary that the higher officials at Geneva should be such as can understand and interpret the policies of their own countries. Moreover, it had become an established tradition that the Deputy-Secretary and Under-Secretaries should be drawn from the Great Powers. But in both the League and the International Labour Organization the principal officer and his deputy were drawn from France and Britain, France having the superior position in the International Labour Organization. Italy was never satisfied with this position, and when Germany entered the League places had to be made for her nationals. Sir Eric Drummond, though he still bore the responsibility of choice, could not ignore the pressure of Governments. The result was an intensification of the diplomatic character of the Secretariat. This increased the discontent of the smaller Powers at their own position in it, and from 1927 onwards there were increasing attacks on the Secretariat in the Fourth Commission which deals with finances and internal services of the League.

The result was that in 1929 a Committee, called the "Committee of Thirteen," was appointed to consider the position of the Secretariat. It was strongly staffed and made a comprehensive review of the whole situation. The German and Italian members advocated a radical change in the character of the Secretariat. They wished that a Committee of Under-Secretaries-General, whose number was to be increased to five, should share with the Secretary-General the responsibility of all political questions. The design, though veiled, was

obviously to put the direction of the Secretariat in commission and thus reduce the predominant position of France and Britain. The majority of the Commission recommended, on the other hand, a large increase in the number of Under-Secretaries-General, so that nationals of the smaller Powers might attain to this position while leaving the authority of the Secretary-General and his Deputy as at present. After stormy debates on the report in the Fourth Committee neither of these suggestions were adopted. But the result was to show that a great majority of the members were solidly behind the conception of an international Secretariat on the lines which the Secretary-General had endeavoured to maintain. The pay and security of the officials were also increased, and long-term appointments were authorized for the first class of the Secretariat as well as temporary appointments. The debate was resumed in 1931 without much result, and in 1932 it gradually became overshadowed by the impending resignation of the Secretary-General. His determination to relinquish his appointment naturally affected the whole situation. When an Englishman was appointed as Director of the Labour Organization it was inevitable that France should all the more insist on her claim to the succession to the position of Secretary-General. There was a prolonged struggle on the Council throughout the Assembly of 1932, and agreement was only reached at the last minute. The question of the higher officers and their "cabinets" was also fiercely debated in the Fourth Committee. France succeeded in her main aim and M. Avenol, the Deputy-Secretary-General, was agreed upon as Sir Eric Drummond's successor. Compensation was found for the other Powers by an arrangement that no other Frenchman was to be included in the highest posts of the Secretariat. These were to consist of two Deputy-Secretaries-General appointed for eight years, and three Under-Secretaries-General each appointed for seven years. They are to be divided between the other Great Powers and one of the smaller Powers.

The compromise is hardly a satisfactory one. Such a struggle could not perhaps be avoided now that the League has obtained so important a position in international affairs and Foreign Offices have so great an interest in it. The prestige of the bureaucracies was concerned as well as the interests of their states. In a sense there has been a triumph of the national idea inside the Secretariat. It is significant that all officials of the rank of Director or above are to make a solemn declaration of loyalty. It may be hoped this "sanction" will assist them to act with the same spirit of impartiality which has guided the conduct of Sir Eric Drummond.

The duties of the Secretariat include many of those which are performed by a national civil service with others peculiar to their position. They are divided into sections which correspond with the principal spheres of activity of the League. They collect and analyse information on these subjects and make it available for the representatives of Governments. The documentation of the League is now considerable, and as it is the recognized world centre in so many subjects, it has become the recognized authority on them. Information is continually brought to it and sought from it. Its officials thus have a knowledge of certain subjects unsurpassed elsewhere.

This knowledge and the means they possess of bringing it before influential personalities in so many different Governments give them an influence on the course of events which needs exercising with discretion. In theory they should have no policy of their own, but merely carry out the plans of the various Committees who use them or in final reference of the Council and Assembly. In practice, no less than national officials, they have their own plans and prejudices, and knowing the League machine better than the Government representatives, they can often initiate or push through policies which would otherwise be lost. They often also exercise great influence on elections in the Assembly. But this position has been used with discretion. In the earlier stages of the

League's work, when Governments had little knowledge or interest in it, the action of the officials was sometimes a determining factor. But now in nearly all countries the officials and experts who accompany the political representatives to Geneva or serve on the League's Committees have also great knowledge and experience and policies of their own to prosecute.<sup>1</sup> Though the Secretariat undoubtedly exercises considerable power in emergencies because it is the only organ of the League always in being, it must ultimately be responsive to the will of the Members and in political matters to that of the Great Powers on whom action depends. Moreover, the growing complexity and importance of the League's work, and the fact that so many organs of national Governments are now brought into contact with it, on the one hand make the Secretariat all the more indispensable to the efficiency of the League's work, but at the same time diffuse the knowledge and contacts of international administration, and have tended to remove the fear of the League's Secretariat becoming too influential and powerful—a danger which never really existed.

One of the main functions of the Secretariat is that connected with publicity. The League, as has been seen, has from the first made the publicity of its meetings one of the main points of its development. But the multifarious and intricate nature of much of its work makes the task of reporting its proceedings a peculiarly difficult one. For this purpose nearly one hundred journalists are permanently stationed at Geneva, while for the Assembly as many as four hundred come together. To enable them to obtain the necessary information as quickly and accurately as possible, the Information Department of the Secretariat follows the proceedings and issues summaries and verbatim reports at frequent intervals. No one man can follow

<sup>1</sup> Many of the smaller Powers, especially those outside Europe, have accredited permanent representatives to Geneva. This development was not welcomed by the Secretariat or the Swiss Government, but it at any rate revealed the growing importance of the League in the eyes of the Governments.

the various Commissions of the Assembly, but with the assistance of the Secretariat a comprehensive account can be made in time for the daily Press. Elaborate arrangements have also been made for telephonic, telegraphic, and wireless communication, and in recent years for the broadcasting of the principal speeches.

Many journalists have responded to these opportunities, and there are now a number who have made a special study of League procedure and are real experts on its history. An Association of Journalists has been formed at Geneva which has acted as a link between them and the Secretariat, and on occasion has urged the importance of publicity to the Council and Assembly. In 1927 a comprehensive Conference of Journalists was summoned to Geneva, which dealt with many technical questions very successfully. The result has been that there is a far more complete and intelligent account of the League's meetings in the world's Press than at one time seemed possible. Many newspapers, of course, simply use such facts as support their own view of affairs and ignore or distort the rest, just as they do in national affairs. Papers controlled by men like Mr. Hearst or Lord Beaverbrook make no attempt to report the proceedings at Geneva fairly or impartially, and portions of the public are misled in this way. But there are now so many sources of correction that these actions produce less effect than might be expected.<sup>1</sup>

The Secretariat also supplies a good deal of informatory literature to the world in several different languages. This must necessarily lack all appreciation or criticism of motives, and tends,

<sup>1</sup> The Danish Government summoned a Conference of Governmental Press Bureaux at Copenhagen in 1932, which passed a number of resolutions concerning the freedom of the Press, etc. The Spanish Government has offered to organize a similar one in 1933. The whole subject was discussed in the Sixth Committee of the 1932 Assembly, where it was agreed that the danger of false news being disseminated by the Press was not great, but that its suppression or distortion was injurious to the formation of a sound public opinion.

therefore, to be a little colourless, but in some of the smaller countries, which have not many other sources, it has been of great importance. It has also maintained offices at the capitals of the five Great Powers which are members of the League and a Bureau of Liaison with South America. In recent years the higher officials have paid visits to non-European areas which have sometimes had good results.

The establishment of the Secretariat raised the problem of diplomatic immunity for its officials. This was not settled without some difficulty with the Swiss Government, for the total number of officials was large. Even now there is no general acceptance of their diplomatic position by the whole world, though they have special passports. Fortunately, no specific case has yet arisen of a Government not allowing freedom of action to its own nationals, though Italian declarations at one time seemed to threaten the position of Italian subjects employed by the League.

The finances of the League have also been a thorny problem. Again there was little to guide the League in past experience, and the manner in which the new problem has been worked out is a notable piece of international administration. A proper solution was of the utmost importance, since those who wished to attack the League were only too anxious to obtain the argument that national resources were being wasted on foreigners.

In the Covenant it was laid down that the expenses of the League were to be apportioned amongst its members according to the scale of the International Postal Union for the administrative expenses of its bureau. The Hague Court had also used this scale. But while the seven classes into which the nations were divided for this purpose were sufficient for the small amount concerned, it was soon seen that it was entirely inadequate for the much larger sums necessary for the League. Yet the difference of opinion as to how the expenses should be allocated was so great that it was difficult to secure

the unanimity necessary for an amendment of the Covenant. For a time it was even considered easier to get the International Postal Union to change its scale into one which suited the League. This rather undignified method was abandoned, and as a result of Committee reports a new scale was drawn up which took into greater account the resources of the Great Powers and reduced the contributions of new states such as Canada and Australia. Allowance was also made for the war losses of various states. An amendment to the Covenant was also passed which gave power to the Assembly to decide the scale in the future. Though the ratifications necessary to bring this amendment into force were not secured until 1926, yet the Assembly immediately accepted the scale, and with some adjustments it has been applied ever since. The proportion now varies from one hundred and five units paid by Britain to one unit paid by such small states as Liberia and Luxemburg. Since the total number of units is 1012½, Britain pays about one-tenth of the whole and the British Commonwealth rather more than one-quarter. Some difficulty has been caused by states falling in arrears with their contributions. China, for example, owed large sums at the very time she was claiming a permanent seat. She has since made a great effort to re-establish her position. Many of the South American states are also behind since the depression reached its present height. But the total amount was never a large proportion of the whole, less than 5 per cent. to the end of 1930.

Even more important was the control of expenditure. This was achieved through the construction of a Budget which the Assembly approves. Since the League's duties were continually expanding, and the Budget had to be drawn up considerably in advance, this was not an easy task. But the machinery desired by a special Committee which was much influenced by the advice of the British Treasury was skilfully designed. The estimate prepared by the Secretary-General is scrutinized by a special Committee, which has been fortunate

enough to find some specially efficient members to give it long service. It is then referred to the Fourth Commission of the Assembly, where, as has been already explained, it is often subjected to rather pettifogging criticism. But the whole process ensures that economy shall receive due weight, perhaps too much weight; and while the League expenses have grown with its development the most recent Budget is only 33,429,132 Swiss francs. This sum pays not only for the Secretariat of the League, but for the expenses of the Commissions and Committees, and also for the International Labour Organization and the Court which together absorb about one-third of it.

This is a relatively small sum, and propagandists of international good will are fond of comparing the expenditure with that devoted to armaments. The difference is indeed striking, but the argument should not be pushed too far. Moreover, it is rarely pointed out that the League costs all states sums of money, which in their total must be considerable, in the expenses of the delegates which they send to the Council, Assembly, and various Committees and Conferences. The total, however, is so small in comparison with the results achieved that those irresponsible and sensational journals which have attempted to attack the League's work on the ground of expense have so far produced little effect on public opinion. In the 1932 Assembly, however, there was an insistent demand for economy, led by Britain, which resulted in some reduction of salaries where the contracts of the League allowed, and a promise of more. Important activities, such as the verbatim reports of the Assembly, were also curtailed in spite of the journalists' protests.

The establishment of the seat of the League at Geneva has also proved a wise decision. Its climate is only passable and its rate of living not cheap. Communication by rail and air are not good, and wireless and telegraphic and telephone connections were inadequate; but these disadvantages could

<sup>1</sup> Approximately £1,335,165 at the gold standard of exchange.



be eventually overcome, or at any rate easily borne. It possesses a number of hotels which, though taxed to the utmost in September, accommodate the delegates with reasonable comfort. The society of Geneva was so constituted that it was able to become so important a centre without losing its own individuality or affecting in any way the life of the League's officials. The League was thus able to create its own atmosphere, and if it lacks the relief and stimulus which a larger or more active community would give it, it avoids the danger of being influenced by too close an association with its surroundings.

Though the International Labour Organization has now its own building and the new League buildings have at last been begun, the question of a permanent home for the League, suitable to its position in the life of world society, has not been well managed. The Swiss Government after some difficulty allotted a site which, though lacking contact with the International Labour Organization and access to the Lake, is adequate. But the selection of the architect and the allotment of the building contracts have shown how difficult it is to get efficient control of such work by an international body. In this minor problem national prestige and jealousy were allowed too great a scope, and though the compromises ultimately reached will provide a useful building, it is not likely to be considered a *chef d'œuvre*. The cost has been provided by savings out of the annual budgets. It is by no means lavish, and many a municipality has been less niggardly than the fifty-odd Governments who have shared the cost between them. For the provision of an adequate library, a necessity for the efficient development of the League's work, the ubiquitous and always timely generosity of the Rockefellers has had to be utilized.

## CHAPTER VIII

# THE PERMANENT COURT OF INTERNATIONAL JUSTICE

Nothing can secure for human government and for the authority of law which it represents so deep a respect and so firm a loyalty as the spectacle of sovereign and independent states, whose duty it is to prescribe the rules of justice and impose penalties upon the lawless bowing with reverence before the august supremacy of those principles of right which give to law its eternal foundation.

JOHN HAY, *Instructions to American Delegates  
to the Hague Conference, 1899*

WE have noted the failure of the Hague Conferences to set up a Permanent Court and Lord Cecil's advocacy of it at Paris. But it was clearly impossible in the time available to solve the problem there, and Article XIV of the Covenant merely threw the responsibility on the League of bringing a Court into existence. The Council accordingly set up an Advisory Committee of Jurists to draw up a plan. These included a number of notable authorities on international law who had been present at the Hague Conferences, amongst them Mr. Elihu Root. Their plan was discussed by the Council, altered in one or two important particulars, then submitted to the First Assembly, where it was subjected to vigorous criticism in the First Committee and eventually adopted in the form of a separate Statute. Signatures and ratifications of the Protocol of this instrument were rapidly secured and at the Second Assembly the judges were elected. The Court, therefore, came into existence by an international treaty as well as by the action of the League from which it obtains its election and payment, but is otherwise completely separate. Its rules, drawn up at its first session, were reviewed in the light of experience and reconstituted in 1926 and revised to

meet the new Statute in 1931. In 1929 the Statute was reconsidered by a special conference of its signatories and amended in some details, notably as regards the number of judges and the amount of time they should give to the Court, which was to sit continuously instead of holding sessions as heretofore. It was hoped that this Statute would come into force in time for the elections of 1930. But ratifications were delayed and, in the case of one country, refused altogether owing to personal reasons.<sup>1</sup> An awkward situation was created, but it was surmounted by increasing the number of judges and requesting the new Court to act so far as possible according to the new Statute, which in a sense came into force before it legally existed.

That a Permanent Court could be made was simply due to the fact that the existence of the League of Nations removed the obstacles which had previously prevented success. In particular, it provided machinery for the election of judges which had never existed before. It was Mr. Elihu Root who, after the usual deadlock had appeared as a result of the demands of the small Powers for equality, suggested that the solution should be found in election by both the Council and the Assembly. In the latter, the principle of equality was recognized; in the former, the Great Powers were predominant.

This device, accepted by both Council and Assembly, has worked remarkably well. The candidates are designated by the national groups of the Hague Court of Arbitration of 1907, or, in the case of Powers who had not signed it, by other groups appointed in the same manner. Each nominate four candidates, and two are to be of other nationality than the group, with the result that some candidates are nominated by several different countries, and thus already picked out of the mass

<sup>1</sup> This led to a notable passage of arms in the First Committee, where M. Politis expressed the general indignation against Cuba in incisive language. In the 1932 Assembly it was announced that Cuba had withdrawn her objections, and hopes were expressed that the new Statute would soon be brought into legal existence.

before the election takes place. In both the elections of 1922 and 1930 the majority of the judges were elected at the first ballot by absolute majorities, as required, by both the Assembly and the Council, and subsequent ballots, and in one case a conference, soon solved the differences between them. Only in one case has there been a prolonged series of ballots, which, however, eventually resulted in a decision without reference to the members of the Court already elected, which is the method of solution if all agreement fails. Originally there were eleven judges and four deputy-judges, but in the revised Statute fifteen judges are established.<sup>1</sup> Their salaries have been increased, and at the same time continuity of service is expected from them. Periodical long vacations are to be given to those who are not Europeans, but they are not merely not to "exercise any political or administrative function" as in 1923, but also not "to engage in any other occupation of a professional nature." Thus they are to a very large extent now to be wholly employed in the duties of the Court. They are elected for nine years, but can be re-elected. Vacancies owing to death or resignation in the interval are filled only for the remainder of the nine years, so that there is a completely new election when the period of nine years is terminated.

Their qualifications are laid down in Article II as "persons of high moral character who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law." In some countries the Courts may not have to deal extensively with matters of international law, and experts in the subject may therefore make better judges of the Court than practising lawyers.

Previous to the second election Lord Finlay (British) and M. Weiss (French) had died, and Sir Cecil Hurst and M. Fromageot were elected in 1929 to the vacancies. Each had

<sup>1</sup> Four deputy-judges were also elected because of the failure to bring the new Statute into force, but these were not meant to act.

been Legal Adviser to the Foreign Office of his own country, and there was some fear lest such appointments should lower the position of the Court in public opinion. The 1929 Conference also passed a resolution that the new judges should have "practical experience." The Court, indeed, as reconstituted in 1930 is perhaps less distinguished than that elected in 1921, but it is sufficient to command respect and, as the Statute desires, represent "the main forms of civilization and the principal legal systems of the world."

Only states or members of the League can be parties to a dispute brought before the Court, but a state can, of course, take up the cause of its subjects against another state and thus bring it before the Court. The case is conducted by agents, assisted by Counsel, and by means of written documents and oral pleadings as in a national Court. The official languages are French and English, but other languages can be used by consent of the Court, if a translation is provided. Where a state has no judge of its own nationality on the Court, it can appoint one *ad hoc*. This rule, much criticized, since it seemed to show that judges represented their own nationalities rather than the whole body of states, has been defended on the ground that the tribunal should always have on it someone with a special knowledge of the law and custom of each of the contending states.

The jurisdiction of the Court was in the first instance only made to extend to cases when it was voluntarily adopted by the parties. The Advisory Committee, under the leadership of Mr. Elihu Root, had wished to give the Court compulsory jurisdiction in "justiciable" matters. But the Great Powers on the Council were adverse, and though there was much support for the proposal in the Assembly, it was clear that they would not give way. All that could be done was to allow states to agree to such compulsory jurisdiction by signing a special declaration, defined in Article XXXVI of the Statute, known as the *Optional* Clause. The enumeration of justiciable

disputes which was devised during the war, covers four classes—"the interpretation of a treaty, any question of international law, the existence of any fact which, if established, would constitute a breach of an international obligation, and the nature or extent of the reparation to be made" for such a breach. It is clear that broadly interpreted the amount of ground covered by the article is large, and one of the great advances in recent years is the acceptance of compulsory jurisdiction in such cases by the greater part of civilized society, with indeed some reservations by some states. Jurisdiction is also conferred upon the Court by numerous treaties. It is given jurisdiction over any dispute as to portions of the texts of the peace treaties of 1919, especially those relating to Minorities and Mandates. This area has been continually enlarged on such matters as transit, opium, and many other subjects on which conventions have been negotiated under League auspices. Much of such jurisdiction is now, however, generally covered by the Optional Clause, and most states are bound to submit such matters whether bound by special treaty or not.

The quorum of the Court is nine, but it is hoped that at least eleven judges will normally sit. It was found, in order to maintain a quorum, that the deputy-judges had constantly to be called upon. The amount of business, in fact, exceeded the most confident expectations and continually increased. In one session the Court had to suspend its sittings for lack of a quorum, and it was clear that an increase in the number of judges to fifteen was necessary.

All the judgments, orders, and opinions of the Court are given in open Court. The hearings may be held *in camera* with the consent of the Court, but have, in fact, never been so held. The greatest care has been taken to ensure publicity and that due notice be given to all states, so that any state may claim to be heard if it thinks its interests affected. This notice has been sent not only to non-members mentioned in the annex to the Covenant, but to other non-member states.

The Court has refused in one case, at the request of both parties, to give an unofficial opinion to them in private. The scrupulous guardianship of its public and official character has done much to establish the Court in public opinion. The administration of the Court is in the hands of a Registrar, appointed by the Court, and M. Hammarsköld, the Swedish lawyer, who has held this post, has contributed greatly to the confidence placed in the Court.

The action of the Court, except in one or two cases, where an Advisory Opinion was expressly desired at an early date, has been leisurely. Previously each judge wrote his own preliminary opinion, which were circulated before the Court met to decide its common judgment. Most cases have been decided by majority decisions—a natural result in view of the inchoate nature of the law which the judges administer and the differences in their outlook and training. In many cases minority opinions have been given by various judges either singly or in common, a course which has been criticised as impairing the prestige of the judgment of the Court.<sup>1</sup>

Besides the full Court there are three special Chambers, one for interpretations of the International Labour Organization, one for questions of Transit, and a Chamber of Summary Procedure. Each consists of five judges specially selected by the Court, with two substitutes available if necessary.<sup>2</sup> In the first two Chambers, four technical Assessors are to be chosen for each particular case, by machinery laid down in the Treaty, who shall not vote, to ensure that the competing interests are properly represented. But the first two Chambers have had no cases and the last only one, so that their value appears to be small.

Lastly, there is the duty of the Court to give Advisory

<sup>1</sup> It has especially been suggested that minority opinions should only be given individually and not by a group, as was done in the Austro-German Customs Union case.

<sup>2</sup> In the original Statute the Chamber of Summary Procedure consisted of three judges only.

Opinions to the Council or Assembly of the League. This duty arose out of Lord Cecil's original draft. Its exact significance when first proposed is uncertain, but it seems to have been inspired by the idea that the Court would interpret the Covenant for the other bodies. Criticism was directed towards its wording on the ground that it established a form of compulsory jurisdiction, and the words were eventually reduced to the sentence: "The Court may also give [French text, *donnera*, 'will give'] an advisory opinion upon any dispute or question [French text, *point*] referred to it by the Council or Assembly."

When the Statute of the Court was first drawn up, no reference was made to this duty. It was left to the Court itself to lay down the procedure, and from the first the Court determined that it should approximate as closely as possible to that for making judgments. The same publicity was to prevail, notice was to be given to all states, and arguments were to be brought before the Court in exactly the same way.<sup>1</sup> Moreover, in the famous case of East Carelia, when Finland through the Council endeavoured to get a decision of the Court on a treaty with Russia, the Court sustained Russia's objections and refused to give an Opinion. Such an Opinion, it said, is equivalent to a judgment, and this cannot be given against a Power like Russia, which has not accepted the jurisdiction of the Court. In the revised Statute the rules of the Court were inserted, largely to meet the views of the United States, where, as we shall see, the question of Advisory Opinions has caused great controversy.

The Court has delivered no less than forty-six judgments, Orders, and Opinions to the end of 1932. Their importance has naturally varied. In some cases they have dealt with problems so important as the settlement of frontiers, while they

<sup>1</sup> Originally judgments and Orders of the Court were published in Series A and Advisory Opinions in Series B. They are now all published in the same series, A/B.



have had to give an Opinion on the position of letter-boxes in Danzig—a matter, however, in the circumstances of particular significance. In only one case has there been serious suggestion that the Court was influenced by political considerations—in that of the Advisory Opinion on the Austro-German Customs Union. This was pronounced illegal in answer to the Council's questions by so narrow a margin and with such a confusion of reasons that inevitably the public should take especial notice of the nationality of those on either side. In such a case, where the legal position was very uncertain, the political outlook of the judges is bound to exert some influence, just as in some cases before the Supreme Court of the United States the judges, who will be found on either side, can be predicted from their liberal or conservative outlook on affairs. The prestige of the Court was also injured because before it had delivered its opinion French pressure induced Germany and Austria to abandon their proposal.

Apart from this incident, the Court has been very successful in establishing the confident belief in its impartiality. Only on rare occasions, it is true, have judges, whether permanent members of the Court or sitting *ad hoc*, voted against the thesis of their own countries. But majorities have generally been large, and the Court's reasons have been so cogently and convincingly delivered that they have silenced opposition. The acceptance of its obligatory jurisdiction by so many states, described in Chapter X, shows that it is fully accepted by almost all the world as a tribunal on which states can depend for justice. These judgments and Opinions are gradually building up a body of precedent which is "international law" in a new sense. It is true that the Statute lays down, following the continental system, that each judgment affects only the parties and the particular issue brought before it. But the principles laid down will naturally influence future decisions and also the attitude of states towards similar problems. By authoritative interpretation more precision and consistency

should be brought into international law, which surely needs it.

The Advisory Opinions have played a special rôle in the determination of disputes. Through them the Council has sometimes been able to get a decision when the parties refused to go to the Court direct. In other cases they have settled part of the dispute, allowing conciliatory action to be employed to bring the parties together.<sup>1</sup> The combination of Court and Council has indeed worked so harmoniously that the system has been almost universally approved.

The United States, however, has until now refused its adherence. There is some irony in the fact that a nation which has played so prominent a part in the advocacy of a Court, and whose representative, Mr. Elihu Root, did so much to solve the problems of the Permanent Court itself, should be the only important country, except Russia, which has not accepted it. This attitude was, of course, due to the opposition to the League of which the Court was at first considered a creature. When successive Presidents and Secretaries of State laboured to show that this was not the case and that the United States could sign the Protocol of the Statute and take part in the elections, the opposition in the Senate concentrated on the Advisory Opinions as proof that the Court was a mere legal adviser of the Council. A great mass of public opinion in the United States supported the Executive, and eventually the Senate took refuge in five reservations, of which the fifth, concerning Advisory Opinions, not only insisted on their publicity, which had already been established in the Court's rules, but also that the Court should not "without the consent of the United States entertain any request for an Advisory Opinion touching any dispute or question in which the United States has or claims an interest." It was

<sup>1</sup> The Opinions of the Court have also been of the greatest value in settling authoritatively the legal controversies concerning the application of the International Labour Organization.

claimed that this merely put the United States in the same position as the permanent members of the Council who had a similar veto. But, as we shall see, the question whether a request for an Advisory Opinion needs unanimity is still an open one, while the veto of a Power not participating in the discussion of the dispute was a very different one to that of the members of the Council, who, if they took such a step, would still have the responsibility for the maintenance of peace, from which the United States would be quite free.

Nevertheless, the desire for the participation of the United States was so strong, that when Mr. Elihu Root discussed the problem at the 1929 Conference, a solution was found in a formula which regulated the manner in which communication was to be made to the United States and placed it in the same position as a member of the Council for the exercise of the veto. Should the Council persist in asking for an Advisory Opinion against the wish of the United States, the latter was to be free to withdraw "without any imputation of unfriendliness or unwillingness to co-operate generally for peace and good will."

It was confidently hoped that as a result the United States would adhere to the Protocol and take part in the elections. But though the President signed the new Statute and the Protocol regulating the special position of the United States, so far the minority in the Senate has been strong enough to prevent ratification. Thus, though Mr. Hughes and Mr. Kellogg, both ex-Secretaries of State, followed Professor J. B. Moore as judges of the Court, the adhesion of the United States is still lacking.

PART III

THE ORGANIZATION OF WORLD  
PEACE



## CHAPTER IX

### THE PACIFIC SETTLEMENT OF DISPUTES

The League—the judgment of the League—is the judgment of the highest tribunal to which here on earth any nation can appeal to justify its action, and of whose approval any nation will have infinite need in the moment of trial and trouble.

SIR AUSTEN CHAMBERLAIN, September 10, 1927

THE abolition of war can only be achieved if a substitute for war is found. For war has played a dominating and decisive rôle in the history of the world. While it is true that racial, economic, and geographical causes have been the main influences in determining the distribution of mankind on the world's surface, yet it has also been profoundly affected by war. When great issues have arisen between organized groups of peoples, the appeal to war has often made the decision and enforced it. Sometimes, indeed, it has been clear that if the decision had been postponed the other forces would have eventually produced the same result. But not always so, and in any case man is an impatient animal and seeks to achieve results in his own generation. If we look at the great states of to-day, it was as a result of war that a British flag flies over India, Canada, and a united South Africa, that Texas and California are in the United States, that Japan dominates Korea and Manchuria, and that Germany and Italy are united and self-governing nations. No doubt, in the course of time, some, though not all, of these results might have been produced by other methods. But how long a time? And how could men be expected to wait indefinitely while the slow process of economic and racial organization worked itself out? Yet, since civilization is continually changing and new problems continually arising, the world must be able to make decisions as great as those just mentioned if it is to avoid the arbitrament of war.

By far the best way to ensure that a decision will be obeyed is that it should be made by consent of all the parties concerned. It may be held that, if all nations could see rightly their true interests, even their deepest differences could be satisfactorily settled by discussion and compromise. At any rate, such loss as any party might suffer would be far less than the inevitable loss produced by war. But if men were always reasonable, there would be hardly any need for many of the institutions on which law and order depend. The world for a long period will be dominated by groups who have the same defects as their forefathers. National pride and ambition may be reduced by education and experience, but it will obviously persist for a long period. Economic rivalry is perhaps as strong now as ever in the world's history. Race and religion still exercise their potent influence on the emotions and hence on the actions of mankind. Above all, nations have behind them long histories of conflict with other peoples which affect their present relations and make them suspicious and afraid of each other. It is from the clash of such forces that wars arise. If, therefore, we intend to abolish war, machinery must be set up to enable the various groups, if possible, to make the great decisions by mutual concession, if not to agree that such decisions shall be made by some tribunal, the authority of which is recognized and obeyed. However wisely and justly such decisions are made, some must inevitably be repugnant to large minorities. In such cases the penalty of the recourse to force must be so great and above all so certain that it will be avoided even by those who consider that they are likely to suffer hardship or humiliation. At the very least we must have machinery which will compel men to wait, even under circumstances which seem to them unjust, rather than to risk all on a solution by force of arms. Such waiting becomes more possible if there is hope that justice may be eventually secured in some other way.

This is the great problem for the solution of which the

League was primarily brought into existence, and it is significant that its founders made no claim, either in the Preamble or elsewhere in the document, that they had abolished war. Indeed, one of the great criticisms made against the Covenant in all countries was that war was still allowable under its constitution. But President Wilson and his colleagues recognized that they had not solved the great problem of the alternative to war. They might perhaps have made a more successful appeal to the imagination of the world if they had abandoned logic and announced the abolition of war even when there was not yet in existence anything to take its place. At any rate, mankind in its impatience has now renounced war—though with reservations, implied and expressed, which leave the great problem still unsolved. Nevertheless, greater progress has been made towards its solution in the last twelve years than in the whole previous history of the world, and while the issue is still obviously in doubt, sufficient has been accomplished to give mankind at least the right to hope.

The founders of the Covenant, as we have seen, decisively rejected the idea of imposing on states the decisions of an external body. The Covenant followed in Articles XII–XVII the lines laid down in the Phillimore report, with the all-important addition of Article XI, which stressed the maintenance of world peace as the interest and duty of the whole.

By Article XII, as amended after the creation of the Court, members agreed to submit all disputes to judicial settlement or to arbitration or to inquiry by the Council. Disputes which could be settled by legal methods, were recognized as suitable for judicial settlement or arbitration. Judicial settlement meant that the case is submitted to the Permanent Court. Arbitration refers to the process of settlement by judges appointed *ad hoc*, who shall nevertheless (as distinct from the Council or a Conciliation Body) be judges and judge by legal methods. This does not, however, preclude the idea that such arbitrators might, in cases where the law is not clear, classify it by an



interpretation of existing practice which may be far-reaching, just as "arbitrators" do in disputes between persons. Such decisions had constantly been given in the nineteenth century, as we have seen, though only after the terms of reference had been specially agreed to by the parties and the power of the arbitrators therefore considerably curtailed. In many peoples' minds this process has seemed the way to decide *all* disputes, political as well as legal.

But the Covenant stresses another method for the treatment of political or "non-justiciable" disputes which were considered far more likely to lead to war—the method of compulsory conference. The right of immediate war was abrogated and all members were bound to submit their disputes for discussion to the Council of the League. For this purpose states which were not already represented on it became so during the discussion of the dispute. Thus the procedure of conciliation already laid down in the Bryan treaties was concentrated in the Council, on which the Great Powers as permanent members would always be officially represented, instead of an *ad hoc* body of individuals. It had, moreover, certain powers which a Conciliation Committee does not usually possess. No right was given to it, however, of finally deciding the issue between the states in dispute. All it could do was to elucidate by discussion and research, through its Secretariat or by other means, the facts of the dispute and express its opinion. Even if this was unanimously agreed to by all the members except the parties to the dispute, still the other state or states did not promise to obey it. On the other hand, members of the League, including the other party to the dispute, promised not to go to war with the state which accepted the recommendation of the Council, a considerable, though obviously not an absolutely convincing, inducement to agree.

Two other difficulties immediately arose which have never been satisfactorily solved until to-day. In the first place, the

Council members other than the parties to the dispute might disagree, in which case no solution of the dispute could be made, and the members were left after an interval to independent action.<sup>1</sup> Secondly, a reservation was introduced regarding any matter which "the Council finds after discussion by international law is solely within the domestic jurisdiction" of one of the parties to the dispute. In this case the Council could make no recommendation. The exact meaning of this famous reservation was somewhat obscure. It was inserted in the Covenant by the United States to ensure explicit recognition that on such matters as tariffs and immigration each state should be the sole judge of its own conduct. Yet controversies on such points—as witness the famous tariff wars between Austria and Serbia previous to 1914—may do much to inflame public opinion and thus become a cause, if not the cause, of war. "Here under the existing laws which recognize this principle of exclusive competence," said M. Politis in the 1927 Assembly, "the League is paralysed, the pacific procedure is inoperative, and war is always possible. When we reflect, gentlemen, that these domestic problems include the most serious and vital problems of the day, problems such as those concerning commercial outlets, raw materials, emigration, and the whole question of labour and unemployment, we realize at once what a tremendous gap is still left in the Covenant." Yet M. Politis, when he had claimed that the Protocol had provided machinery to settle all disputes, had still left this problem unsolved.

These are some of the famous "gaps" in the Covenant the closing of which has been so often demanded. But there is an even greater "gap" in the machinery of settlement if that be viewed in the widest sense and not merely as a legal system. Legal rights are to be decided by legal means, and legal rights include those secured by treaties including frontiers. Legal decisions on these rights can only affirm the *status quo*,

<sup>1</sup> Though even then Article XI could of course be invoked to prevent war.

whatever indignation or sense of injustice it arouses. Indeed, the sanctity of treaties was one of the catchwords of the Entente after the invasion of Belgium, and there is a consensus of opinion that neither peace nor justice can exist in a world in which they are wantonly disregarded. But it is also certain that the frontiers of the post-war world were in some cases unjustly or certainly unwisely drawn, while other treaty provisions, such as those relating to disarmament, establish an inequality between the victorious and defeated Powers which the experience of history tends to show cannot be maintained for ever. This difficulty was felt at the time and proposals were made to reduce it. But they were discarded until all that was left of them was Article XIX of the Covenant, which merely allowed the Assembly to "advise reconsideration" of treaties out of date or liable to endanger peace. This mild wording obviously gave no power to solve what is perhaps the major problem of international peace. There is, in fact, necessarily lacking in the international sphere the legislative organ which can alter and adjust laws in the national sphere. Thus the very existence of legal machinery, which emphasizes and enforces the obligations of treaties, some of which have been imposed by force as the result of war, may stand in the way of revision of those treaties which is imperatively demanded for reasons of peace and justice. How difficult of solution this problem is may be realized when it is remembered that in all the plans for the extension of pacific settlement none have put forward any further method for dealing with it than that contained in the Covenant itself.

The great contribution of the Covenant towards the solution of this problem is compulsory discussion and conference. For this purpose there is the procedure of Article XV, by which every dispute can be submitted to this process as has been related above. But in addition there is Article XI, which lays down similar procedure in the widest and strongest terms. In a sense this is only an amplification of paragraph 4 of

Article IV, which allows the Council to deal with any action "affecting the peace of the world." But the duty of maintaining that peace is clearly stated and power given to carry it out. By the first paragraph of Article XI, any war or threat of war "becomes the concern of the League," which is empowered through its Council to "take any action" to preserve the peace. It is peace, however, with which the Council is here concerned and not justice. It is not the right to decide but to prevent war which is emphasized. Nevertheless, these words have already been the basis of much action to decide disputes, and may, perhaps, become the foundation of more powerful and extensive machinery than at present exists.

By the second paragraph of Article XI, the process of mediation, first laid down by the Congress of Paris in 1856, is restated in such a way as to make it really effective, though a less energetic manner is used than in the first paragraph. For any Power is given the "friendly right" of bringing to the attention of either the Assembly or Council any circumstance threatening peaceful relations between nations. As will be seen in Chapter XI, this Article has been more used than any other in the Covenant, both as a means of pacific settlement of disputes and as a means of preventing war, and it may be hoped, in spite of recent events, that its possibilities are not yet exhausted.

Lastly, by Article XVII the Covenant applied the same procedure to disputes between members of the League and non-members, as to disputes between members themselves, promising protection to members, if they claim the procedure, while the non-member states refuse to accept the League machinery. This Article was directed in its origin towards the enemy states, who were not allowed to join the League, and to Soviet Russia, which was even then in conflict with some of those who were to sign it. It obviously became something very different when the United States remained outside the League. It should be noted that non-members cannot

claim as of right the use of the League machinery against members, as they have tried to do on one or two occasions.

The Assembly can also be used for the settlement of disputes, as well as the Council, who must refer the dispute to the larger body at the request of either party. Its powers are then the same as the Council except that "unanimity" is defined as agreement by representatives of those members of the League represented on the Council and of a majority of the other members of the League. For long it was thought that this clause would never be used, and, indeed, in 1923 and 1924 propositions were made to abolish it. The increase in the membership of the Council made it appear still more unnecessary. Nevertheless, in the prolonged dispute between China and Japan resort was had to it, and a procedure was developed to make it practicable.

It must be confessed that these Articles are far from setting out in logical fashion the various methods by which disputes could be settled. The process of conciliation and discussion by the Council is to be found in both Article XI and Article XV. In the first it is connected with the prevention of war and no procedure determined; in the second it is developed into a system, but one which is often vague and confused. Nor, originally, was the distinction between arbitration and judicial settlement made, while the various "gaps," or cases on which no solution can be obtained, are stated in language susceptible of different interpretations. Yet, as is related in the next chapter, a breach of the rules of Articles XII-XV, accompanied by a resort to war, brings into existence the system of penalties or sanctions laid down in Article XVI, so that it was of great importance that the issues should be clear.

The founders of the Covenant were hardly conscious of these defects, but neither President Wilson nor Lord Cecil would have made great efforts to alter them, even if they had been. They were precluded from drawing up a complete system for the settlement of all disputes, since none of the

principal states were ready to accept it. The text of the Covenant by its very vagueness, perhaps, allowed the possibility of the extension of the system by practice rather than a more exact one, which in 1919 would necessarily have had to emphasize the sovereignty of the members and avoided the dreaded bugbear of the super-state.

Obviously there were two methods by which the machinery for the settlement of disputes could be developed. In the first place, states might be encouraged to increase the machinery of arbitration outside the Council until all disputes between them were covered. The development of the Court's power would obviously contribute to this end, but only for legal issues, which, however, might cover more and more ground if by conventions and agreements the area of international law were extended.

The other method was to extend the power of the Council itself to settle disputes. This process was obviously the most suitable for political disputes, which are the most likely to produce war and the most difficult to decide. Progress has been made in both directions, but while the establishment of the Court, it is true, has resulted in many judicial decisions of great importance, the elaborate systems of arbitration and conciliation now in force between many states have hardly ever been used. On the other hand, the Council has greatly developed its machinery in the course of the numerous disputes which have been submitted to it during the last thirteen years.

At the beginning of its history the members of the League could be divided into three main groups, which, indeed, in a sense persist until to-day. First, France and her allies in the Succession States—Poland, the "Little Entente," the new Baltic states—and Greece, who were anxious to develop security and whose efforts along this line we shall consider in the next chapter. Secondly, Britain and the Dominions, to which Italy and Japan were sometimes added, who wished to reduce the commitments of the Covenant, at any rate to

leave it alone and allow problems to be solved as they arose. Thirdly, the group of European neutrals, especially Switzerland and the Scandinavian states, who wished to develop the procedure for the settlement of disputes. The South American states often supported this group, though to some extent they were under French influence, while the defeated Powers, after they had been admitted, tended to reinforce it, emphasizing, however, also the necessity of machinery for the revision of treaties. In the discussions, now one, now the other of these groups would obtain the lead of the Assembly, whose debates to a large extent decided the direction of the ensuing effort.

Behind the whole controversy lay the great problem of the reduction and limitation of armaments to which the victorious nations both as signatories of the Treaties and as members of the League were definitely committed. It was a desire to obtain some progress in this last problem and in the general pacification of Europe that led British statesmen to consider the plans which the others persistently put forward. The result was a prolonged debate, which for some years proved completely abortive and indeed had a negative character. For as the Articles of the Covenant were subjected to close and searching analysis by lawyers and specialists, their confused and contradictory character was easily demonstrated. Each side tried to emphasize that part of the Covenant which suited its own case best, in the same manner as the parties in the Church of England discuss the Prayer Book. Each was led into declarations and interpretations which alarmed the other. At one time it almost seemed as if nothing would be left of the Covenant if the debate was prolonged much further.

Meanwhile, however, practice had solved some problems and revealed new ways and methods. At last a compromise was obtained between the parties in the Locarno Treaties in which security and arbitration (though not disarmament) were reconciled in a manner sufficiently illogical to enable

the British to accept them. Germany entered the League and a new stage in the problem was entered upon. Since then there has been a rapid development of the machinery for the settlement of disputes and the Covenant is now reinforced or assisted in a number of different ways, though the main problem still remains intractable.

The establishment of the Court was, of course, the first necessary step in the process. Henceforth, there was a tribunal for all legal disputes if States cared to use it. It was *optional*, however, to take the obligation to use it, and for a long period only some of the smaller states were so bound. Still, the existence of the Court was a great factor in all attempts to develop the system of pacific settlement.

Moreover, the Court could give Advisory Opinions to the Council. This fact enabled that body to refer to the Court the legal issues embodied in disputes otherwise complicated by political questions, and thus to clear the ground for a compromise made under their auspices. These references have always been made by a unanimous Council. But it is still an open question whether a majority has not the right to do so as a matter of procedure. Here was an obvious avenue to compulsory judicial settlement. States must come before the Council, the Council could compel reference to the Court, the Opinion when received amounted to a decision.

Apart from this process there was little development of the machinery of settlement until 1924. The Scandinavian Powers constantly advocated the extension of arbitration, but the main attention of the League was concentrated on the question of security. In 1924, however, arbitration was made the key to the solution of the differences between Britain and France in the famous Protocol for the Pacific Settlement of Disputes, which attempted to settle out of hand all these complicated problems which we have been discussing. Indeed, its advocates claimed, though falsely, that it did settle them.

The Protocol was the result of five weeks' feverish activity.



The initiative was in the hands of the "French" group, amongst whom MM. Beneš and Politis—the joint *rapporteurs* of the scheme to the Assembly—played the most important rôle. The foundation of the scheme was the fusion of arbitration, security, and disarmament. Further security was only to be given to states who accepted pacific procedure for the settlement of disputes. This necessitated the working out of such procedure and this was accordingly done. Disarmament could then follow.

The result was a most ingenious and not altogether impracticable scheme which at any rate marked a new stage in the problem. An attempt was made to set up machinery by the side of the Covenant (though at some future indefinite period to be incorporated in it) to settle *all* disputes. For this purpose *compulsory* arbitration was to be instituted. The Optional Clause was to be signed by all the parties. Thus all purely legal disputes would be settled by the Court. For other disputes, if one state desired it, the Council could insist on applying compulsory arbitration at once to a dispute, and had the duty of drawing up the *compromis* or issue to be settled. Otherwise, the Council was given the right of making its unanimous decision (the parties not voting) compulsory. If it failed in unanimity it referred the matter to compulsory arbitration.

"Our purpose," reported MM. Beneš and Politis, "was to make war impossible, to kill it, to annihilate it. To do this we had to create a system for the pacific settlement of *all disputes* which might ever arise. In other words, it meant the creation of a system of arbitration from which no international dispute, whether judicial or political, could escape. The plan drawn up leaves no loop-hole; it prohibits wars of every description and lays down that all disputes shall be settled by pacific means."

This claim is only true, however, in a very limited sense. As M. Politis himself pointed out, there were at least three exceptions. One of these, the measures of war taken to coerce

an offender, a point on which the British Government had insisted to safeguard its own interpretations of sea law, was not of much importance. But the two others were fundamental. "There are disputes which aim at revising treaties and international acts in force, or which seek to jeopardize the existing territorial integrity of signatory states . . . the impossibility of applying compulsory arbitration to such cases was so obvious that it was quite superfluous to make them the subject of a special provision." The other case was a "unanimous decision of the Council," which was held to be equivalent to a treaty, which covered, of course, the famous case of Upper Silesia. There was also a fourth case, matters of domestic jurisdiction, which, as has been seen, M. Politis four years later was to describe as a "tremendous gap."

Thus the Protocol did actually establish procedure for the settlement of all disputes within the legal framework of the treaties and international law. But the greater problems which involved changes in the system were still without means of solution. In a sense there was a decision, viz. that the legal rights conferred on them were binding unless altered with the consent of all parties concerned. No one, of course, suggested that they should be subjected to the process of arbitration. It was, as the *rapporteurs* said, clearly impossible to do so. But the effect of the Protocol was therefore to enforce still more than before the *status quo*. It was, in fact, a victory for the Powers who sought to use the League for security as was seen in their attitude towards it. For while France and her allies warmly welcomed it, it was coolly received in Britain and the Dominions, and was eventually rejected by the new Conservative Government in a note drawn up by Lord Balfour which was scathingly critical.

Nevertheless, the discussions on the Protocol had done two things. They had, for the first time, revealed the problem in its complexity to public opinion. It began an educative process, which is not yet completed, and has thus prepared

the way for all the later developments. Moreover, it revealed the intensity of feeling among many smaller states for some system of pacific settlement and security more exact and certain than the Covenant laid down.

In rejecting it the British Government had tried to soften the blow by alluding to the possibility of an advance in "regional" agreement, even if a universal system such as the Protocol could not be attained when three Great Powers were still outside the League. Negotiations were, indeed, already in train to produce a reconciliation between France and Germany by means of a British guarantee. For this purpose it was found to be necessary not only that Germany should enter the League and thus come within the League machinery, but that special machinery should be set up to settle the disputes of Germany and her neighbours. These results were produced by the Locarno Treaties of 1925. Germany and her neighbours renounced war and promised to settle all their disputes by peaceful means. Elaborate machinery was set up between them for judicial settlement of legal disputes and treatment of other disputes by Conciliation Commissions. If the efforts of the Commission failed to produce agreement, which, of course, they had no power to compel, the procedure of the Covenant under Article XV was to be applied. Thus no real provision was made to fill the "gaps" in the Covenant as regards decision of disputes, in spite of the fact that war was renounced entirely except for self-defence or for purposes of League action. This illogical method (which was later to be followed in the Kellogg Pact) was nevertheless a great advance, since it brought Germany into the League and thus definitely applied the methods of the Covenant to the most important disputes of Europe. But its main contribution was in the direction of the renunciation of war and in the guarantee of the Western frontier by Britain and Italy after Germany accepted it of her own free will, rather than in the direction of the settlement of disputes.

One result of the Locarno Treaties was to move the United States to bring forward the idea of a general renunciation of war and the general acceptance of settling all disputes by peaceful means. Since Germany and her neighbours had made such promises without waiting to solve the problems of setting up machinery to make the final decisions, there had been much discussion as to the possibility of generalizing the promise. Poland had moved, and the 1927 Assembly had passed, a resolution condemning all wars of aggression, and the Pan-American Conference of 1928 had passed similar resolutions. The occasion for the American move was a suggestion of M. Briand to the Government of the United States that "war as an instrument of national policy" should be renounced in a special treaty between the two countries. This idea was at first coolly received at Washington, since it would have put France in a special position and made the United States at least neutral in any quarrel into which France got involved, whatever her opinion of the merits of the case. But there was in the United States a powerful movement for the "outlawry of war," a vague and sentimental phrase which, however, besides capturing the imagination of a considerable body of public opinion, had the support of Senator Borah, the Chairman of the Foreign Relations Committee of the Senate, as strong in his opposition to the League and his criticism of the Versailles Treaty and French policy generally as he was ardent in the advocacy of peace and disarmament. It was this influence which caused Mr. Kellogg, the Secretary of State, to propose to France that, instead of a special treaty between the two states, there be substituted a general treaty open to all nations by which they should promise to renounce war as an instrument of national policy, and only to seek the settlement of disputes by peaceful means. Since the United States had not accepted the obligations of the Covenant, and the Senate insisted that every arbitration agreement must first secure its approval to its special provisions, it was obvious

that no machinery could be set up in the Treaty to implement the promise. All that could be done in the Kellogg Pact was to make a solemn affirmation of principle.

By this document, which is now nearly universally accepted, the signatories not only renounce war as an instrument of national policy, but also, in Article II, promise "that the settlement or solution of all disputes and conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means." This is an important declaration and has already been made the foundation of important action. But it should be noted that states only promise not to seek a solution by war. They do not promise to find one by other means. The deadlocks that must result from the clash of interests and claims still remain. But if, as the American Secretary of State has since claimed, consultation between the parties is implicit in the event of a violation of the Pact the result is to associate the United States with that system of compulsory conference already set up in the Covenant. This is an event of tremendous importance in the development of the League.<sup>1</sup>

The renunciation of war had immediate important psychological effects and helped to speed forward other efforts to increase the machinery for the settlement of disputes. The cry now was "to implement the Pact." Since war had been renounced other methods should be found. One step forward was made on the initiative of the British Labour Government which came into office in 1929. They offered to sign the Optional Clause of the Court's Statute together with the

<sup>1</sup> "Another consequence which follows this development of the Briand-Kellogg Treaty . . . is that consultation between the signatories of the Pact when faced with the threat of its violation becomes inevitable. . . . That the American people subscribe to this view is made clear by the fact that each of the platforms recently adopted by the two great party conventions at Chicago contains planks endorsing the principle of consultation." Address by the Hon. H. L. Stimson to the Council of Foreign Relations. New York City. August 8, 1932.

Dominions; Germany had already done so, and France had offered to do so in connection with the Protocol, but the signature of Britain and the Dominions, which had so long refused the acceptance of such obligations, was rightly considered as an event of great importance.

It is true that the Empire signature was accompanied with several reservations which reduced somewhat the subjects to which compulsory judicial settlement could be applied. Other signatories had made reservations, though not so many. But not only was the British acceptance subject to reciprocity, for a period of years and exclusive of disputes which by agreement were to be referred to other methods of settlement, conditions which were to be expected, but it was limited to disputes "with regard to situations or facts subsequent" to it, and exclusive of disputes between members of the Commonwealth and of those "which by international law fall exclusively within the jurisdiction of the United Kingdom." The first of these special reservations is due to a natural wish not to throw open the whole of past history to challenge, the second to a desire to encourage the Commonwealth to develop its own system without recourse to external aid. The third makes no difference. One other reservation is, however, of great interest. Britain reserves the right to suspend the Court's action on any dispute until it has first been considered by the Council of the League. Thus an attempt at an arrangement by conciliation and compromise in the atmosphere of the Council, which would ensure full publicity and the services not only of the Council members but of the Secretariat, can be made before the matter is submitted to the arbitrament of the Court. If decision by consent is the best of all decisions, this is an admirable method to obtain it when the parties rank the good will of each other high in their scale of values.

The example of Britain was followed by a large number of other states, and now nearly all the members of the League have signed the Optional Clause, including all the Great

Powers except Japan. This is a great advance and, as the area of international law is increased by treaties or otherwise, will cover an increasing number of disputes. Though the greatest controversies can hardly for a long period, if ever, come within such jurisdiction, yet they will be affected by the fact that on "justiciable" questions so many states have agreed to compulsory jurisdiction. The growth of a Court to which all Powers, Great and small alike, come as a matter of course for the settlement of the legal issues between them, is one of the outstanding facts of our age.

This great advance encouraged those who were trying to establish machinery by special treaties for the settlement of all disputes both political and juridical. The process dated back to the early years of the League, but was intensified as time went on. Some of these treaties made provision for the settlement of every kind of dispute by arbitration if methods of conciliation failed. Switzerland, for example, was a notable pioneer of such treaties and arranged them with all her neighbour states. It was the Committee of Arbitration and Security, set up as part of the Preparatory Commission of Disarmament, which took up the task of drawing up a general instrument along these lines. The ten model treaties which it drew up were bilateral as well as multilateral, partly in deference to British insistence that arbitration could not be generalized. These were submitted to the Ninth Assembly when the First Committee, in spite of some opposition from Britain and Japan, combined them into a *General Act*. By it, states could choose a number of different methods of procedure, varying from the most advanced form in which ultimately arbitration would be used for the settlement of all questions, to less rigorous treaties in which conciliation only was applied to political questions by means of Conciliation Commissions.

There was considerable hesitancy in accepting this measure. States which are ready to accept advanced measures as regards

a particular state are less eager to promise them to any state who may sign the Act. Moreover, the General Act has been criticized with much justice as tending to take political disputes out of the hands of the Council of the League and placing them in the hands of a number of Conciliation Commissions composed of men whose names are not known and who must come to their task without the aid of tradition, experience, and the Secretarial machine. Indeed, the idea of setting up large numbers of Conciliation Commissions to deal with the various combinations of states seems *prima facie* a retrograde one. The procedure is generally recommended on the ground that the Council is a political body and will not decide solely on the facts of a given case. It is difficult, for example, to see Poland and France as completely impartial should one or the other be involved. But in some cases the presence of seconds of either party, who may act as intermediaries, may be a real advantage. Moreover, as will be pointed out later, the practice of the Council is to enlist other bodies to help to determine the dispute while it exercises general supervision over the settlement itself, and above all sees that acts of force do not break out during the period of tension. Those who made the General Act were no doubt thinking also of states not members of the League who would not accept the Council's assistance. But neither Russia nor the United States are likely to accept the General Act, and it seems a pity that the Council itself was not placed in it as the main organ of international conciliation.

The British Government has dealt with this situation by a series of reservations which go far to transform the General Act. The Council is to be used as the organ of conciliation, and the Conciliation Commissions relegated to a subordinate position. From compulsory arbitration are exempted not only all disputes as to the past, as in the signature to the Optional Clause, but also those "solely within domestic jurisdiction." When these were exempted from judicial settlement it made



very little difference, since the Court was bound to decide that they were within the competence of the parties. But if they are also exempted from arbitration there is no closing of the great gap, which M. Politis discerned, except by the same process of discussion which is always open under the Covenant, under Article XI if not under Article XV. The other reservations of the Optional Clause are also again laid down, and in addition, that the Act is not to be applied to any state not a member of the League—thus excluding Russia. These reservations reduce the General Act's usefulness to such an extent that some critics have thought the signature meaningless. But it is important as indicating an advance, even if only a cautious one, towards a system of arbitration of all disputes. If experience shows that the machinery provided is adaptable to circumstances it may be extended by use until custom makes refusal to have recourse to it impossible.

Meanwhile, across the Atlantic the Pan-American Conferences in 1928-29 had adopted somewhat similar procedure to that laid down in the General Act, though the Conciliation and Arbitration Conventions were kept separate, and the latter included considerable reservations. Even more important was it that a large number of signatures and ratifications (with reservations) were obtained and, most significant of all, that the United States Senate allowed ratification of the Conciliation Convention without reserving its rights to control the issue. Though existing treaties were reserved from the Arbitration Convention, yet the advance in the Americas is in a sense as great as that in the Old World produced by the signing of the Optional Clause. When it is remembered that such procedure has hardly ever previously been applied to those Caribbean questions in which the United States has acted so drastically, the change of attitude will be appreciated, even if its present position in Cuba, etc., is exempted.

Another project which has had strong American support is

that of the Codification of International Law. Indeed, some enthusiasts consider that if only lawyers could be kept out of the business it would be comparatively easy to draft a world code which a court could administer. But the large and scientific body of American international lawyers have also shown interest in this idea in a more sane and cautious, though rather optimistic, manner, and the American Institute of International Law has worked on the scheme for some years. It was a desire to satisfy this movement which led the League to take up the idea in 1924, and after considerable preparation by a committee of experts, three subjects were selected as ripe for "codification," and a Conference was summoned to the Hague in 1930 to draft the new law. British scholars always tended to be sceptical of a process which in any case was little attuned to their national outlook. International law was, in their opinion, not yet ripe for such treatment. Codification implies the simplification of a large body of law already in existence. But so much of international law is challenged by one state or another that the necessary agreement is yet far to seek. Such codification cannot be produced by majority decisions. It must secure the acceptance of the vast majority of states, including at any rate all the Great Powers in the League and the United States.

The result of the Hague Conference confirmed these fears. On two of the subjects, Territorial Waters and the Responsibility of States for Damage caused in their Territory to the Person or Property of Foreigners, no agreement could be reached. On the third subject, Nationality, a convention was drawn up which, although far from comprehensive, laid down a number of rules which, if adopted, will certainly simplify a complicated international problem, often the cause of much friction. This was a real contribution whose usefulness was not impaired by the demonstrative antics of a number of extreme supporters of woman's rights because their view of a married woman's right to choose her own nationality did

not win the approval of most states.<sup>1</sup> The Assembly has determined to explore the possibility of applying the same process to other subjects. But it seems clear that "codification" of most of international law is at present impossible. Nor is it desirable, since it would on many subjects inevitably prevent development of present practice in a more suitable and liberal direction. It is to the decisions of the Court and the growth of more treaties and conventions which are universally accepted, that we must look to promote the growth of international law into a body of rules more akin to those which determine the relations of individuals to one another inside the state.

One other attempt to increase the procedure of pacific settlement at Geneva must be mentioned. In 1929, a proposal was made by Britain at the Assembly that the Covenant should no longer allow members the right to go to war, since they had renounced it by the Kellogg Pact. In the course of the discussions certain proposals were made, by the "Committee of Eleven" to which the suggestion was referred, to increase the machinery of decision. Thus it was suggested that a unanimous decision of the Council should be made binding on the parties and that the Council should have the right of seeking an Advisory Opinion by majority vote, both of which would have largely increased its power to decide. But so far, these suggestions have completely failed to win general approval. Whether desirable in themselves or not, they went far beyond the scope of the original proposal, and it seems a pity that they should have been brought forward in this way.

This was an unfortunate attempt to force the pace, but during the period under review great progress has been made. Theory, as has already been hinted, has tended to erect outside the League system other machinery for the settlement of disputes. But this remains theory. The Conciliation Com-

<sup>1</sup> A debate on the subject subsequently took place in the 1932 Assembly which, however, wisely refused to attempt to change the convention.

missions have never, the arbitral bodies scarcely ever, been used since the war. The real experience of the settlement of disputes lies in the work of the Council and the Court which we shall summarize in Chapter XI. But the constant search for other methods has not been without effect. Many states, though not those most liable to armed conflict, have now a practically complete system for the settlement of their disputes. The idea of compulsory arbitration has made headway and may be transferred in modified or disguised form to the Council itself. The prolonged labours and researches of the lawyers and technicians have thrown a great light on all the intricacies of the problem to be solved, and public opinion in many countries has become far more aware of them. Even Britain, whose extended practice as regards arbitration has been always accompanied by a great repugnance to commit herself in advance, has made some steps towards a general system from which she is hardly likely to recede.

Meanwhile, it must be pointed out that even the most extensive of these systems does not solve all disputes. The greatest decisions must still be determined by the treaties which govern the major relations between states, and these can still only be altered by consent. On this head there is hardly any progress to record. Though Germany and the other defeated Powers have constantly made reference to utilizing Article XIX and making it easier to apply, there has been no response in other directions. The revision of treaties is, indeed, constantly proceeding by consent and portions of the Treaty of Versailles have already been relegated to the scrap-heap. But the territorial settlement has remained fixed and no new method has yet been devised for dealing with it. In this great question there is as yet nothing on which to rely except that conference of equals which is part of the procedure of the Council, or an appeal to public opinion by speeches in the Assembly.

## CHAPTER X

### SECURITY

There will be no secure peace till the Great Nations of the world have a consensus of opinion among them sufficient to inspire confidence that they will stand by each other to avoid, to suppress, or to localize and insulate war.

LORD GREY OF FALLODON, 1925

CLOSELY connected with the pacific settlement of disputes are the ideas associated with the words "Guarantee" and "Sanctions," which have been summed up in "Security," a word more often heard at Geneva, perhaps, than any other. Nations may be encouraged to settle their disputes pacifically. But suppose they do not? Treaties, even the most solemn, such as that of the neutrality of Belgium, have been broken. States have been subjected to sudden attack. Provinces have been torn away by victors without regard to nationality or self-determination. All states wish to feel that they are secure from such evils, and many devices, such as defensive alliances and treaties of guarantee, were used in previous centuries for this purpose. All failed, and after the outbreak of the Great War it was recognized that only some system in which all states should bear some responsibility for the defence of all could hope to solve the problem. Then any state which meditated attack or refused to honour its engagements would realize that it was opposed, not by this or that adversary, but by the common body of mankind. It would be regarded as the enemy of the human race and merit the punishment which must inevitably fall on it. Had Germany known certainly, it was said, that Britain and the United States would oppose it if it invaded Belgium, it would never have done so. It was only the existence of such penalties that would restrain the fear, greed, or ambition which history shows impels mankind to violence.

Some such thoughts were inevitable in 1914-19, and they inspired, as we have seen, many plans put forward in various places. In France, indeed, there was a disposition to transform the existing Entente, on the model of the Quadruple Alliance of 1814, into a perpetual League directed against Germany and her Allies. After slight hesitation this idea was rejected by Britain and, of course, never contemplated in the United States. But public opinion in both Britain and the United States recognized that European states were less secure than they were, and that small or weak states could not protect themselves. Moreover, it was clear that any great war in the future would affect the whole world just as the present one had done. To preserve their own peace they must take some responsibility for that of other states.

As we have seen, the Phillimore Committee had no hesitation in accepting the idea of common responsibility. To the system of voluntary arbitration, compulsory conference, and delay, they added the device of co-operative sanctions against those who resorted to war in defiance of the system. Though the economic boycott, already being used by the Allies, loomed large in this proposal, they did not shrink from including military and naval sanctions in their scheme. This was the origin of Article XVI, the Sanctions Article, which has been so much criticized and never used.

President Wilson had already sought to alleviate South American turbulence by suggesting a system of mutual guarantee of territorial integrity and political independence of the American nations. The United States, by the Monroe Doctrine, already guaranteed them from European attack. It was only natural that he should apply similar ideas to the world community. Hence it was from America that there came the other Article specially concerned with security, Article X, which has been even more criticized than Article XVI, was one of the main reasons why the Senate refused to ratify the Covenant, and is to-day regarded as little more than a dead letter by

some expounders of the Covenant. France had some justification when, in 1919, she demanded special treaties of security from Britain and America on the plea that the League system was not yet proven! These treaties, though signed, also failed to materialize, owing to America's defection, and left the problem worse than before.

Article X is a guarantee of existing territorial conditions. Lord Cecil from the outset realized the dangers of such a guarantee of the *status quo* without any machinery for a change, and suggested additions by which the guarantee would have been withdrawn if the League (the organ to make the decision is not stated) was of the opinion that frontiers should be altered. But he was persuaded to withdraw and eventually the only result of his efforts was the vague phrase of Article XIX. The guarantee thus remained without exceptions. But it should be noted that the idea of guarantee of possession was inherent in the formation of a League. If the other provisions of the Covenant were to mean anything there must be recognition of the fact that the old methods of conquest must be abandoned. For in spite of the unfortunate use of the word "aggression," it is defence against conquest and not attack that is guaranteed in Article X.

It is Article XVI that guarantees a state, not against all attack, for that cannot be done, but that it shall receive assistance if it is attacked, and that the attacker shall be subjected to retaliation, economic and military, from all the other members of the League. It should be noticed that the sanctions only come into force on two conditions: (1) that the state has not observed those conditions of delay, publicity, and discussion laid down in Articles XII-XV, or has attacked a state which has accepted a decision of the Council, or has refused to carry out an arbitral decision; and (2) in addition has "resorted to war," whatever that may mean. Not disobedience alone, but disobedience accompanied by violence, is necessary for the sanctions to apply. And in certain cases, when procedure

of pacific settlement has failed to produce a result because the Council is not unanimous or against the state which refuses a unanimous award or arbitral decision, war is permitted so far as Articles XII-XV are concerned.

Moreover, if a state is attacked it has the right of self-defence, and this is not taken away from it by the Covenant, though nothing is said on that point. Obviously, such a right could not be abrogated any more than it can be for the individual in the national state. All that can be done is to endeavour to stop the struggle as soon as possible and to make the individual show cause why he has so acted and that he has not gone further than the provocation demands.

This process implies the existence of both police and law courts which are habitually obeyed. It is much more difficult to apply it to states. In the Covenant it is done to some extent in Articles XII-XVI, which forbid sudden attack on the penalty of sanctions. But it is also affected by Article XI, of which the main object, as we have seen, is not to settle disputes but to prevent war, or threat of war, or conditions which threaten to disturb the peace. No definite process is included as to how this is to be done. But it is laid down that such matters are the concern of the whole League and that any member can cause the Council to be summoned to deal with the question of war or threat of war, or bring up before the Council or Assembly any question threatening the peace of the world.

This Article, brought to Paris by President Wilson, and only slightly altered during the making of the Covenant, is the most important article in it. It gives the League wide powers which only need definite formulation to close all the "gaps" in the system of security. In fact, the "gaps" are already closed in the manner that an earthwork closes a breach in a wall. As will be seen in the next chapter, it has been used again and again both for preventing war and for settling disputes. Its importance was not realized in the early days of the League,



when attention was concentrated on Articles X and XVI. But the various schemes that were evolved for strengthening security were largely only devices for transforming into definite obligations and equipping with adequate machinery the power which the League already had to "safeguard the peace of nations." At any rate, the best part of them was such; for the essence of Article XI is that security is not the individual right of some sovereign state, but something in which the interests of all states are equally involved. Moreover, Article XI emphasizes the necessity of prevention of war, which is more important than punishment after war has broken out.

As soon as it was clear that the United States would not join the League the obligations of Articles X and XVI took on quite another aspect. Nor did the treatment which the enemy Powers were receiving in the Peace Treaties, in spite of their disarmament and territorial loss, make the problem any less difficult. For states demand security, not only because of what has been done to them, but also because of what they have done to others.

It was natural, therefore, that the first years of the League should be largely occupied with the question of security. On the one hand, France and the Succession States demanded more definite guarantees and flatly refused to reduce armaments until they obtained them. On the other, the British group led by Canada, and the neutrals led by the Scandinavian Powers, wished to reduce in scope and certainty even those guarantees which they had already given in Articles X and XVI.

Of these the first stood by itself, and was the affirmation of a principle without any detailed machinery as to how it was to be put into practice. The Council merely had the power to *advise* how the obligation should be fulfilled. There was, therefore, no legal, only, as President Wilson confessed, a moral, obligation to carry it out. But when Canada, which had without avail protested against Article X during the Paris Conference, proposed at the First Assembly that it should be

abolished, France and her allies fiercely defended it. It was at least some claim on the others. A Committee of Jurists was set up by the Council to consider it, and their report was considered by a Committee of Amendments and by the 1921 and 1922 Assemblies. The opinions of the members were also asked on the question of an amendment of the Article. The upshot of all this discussion and analysis was to reveal that some states attached a high value to the Article, while others were alarmed at the obligations thrown upon them. It was obviously impossible to amend it, but a compromise was found in an interpretative resolution finally approved by the 1923 Assembly, which laid down that it was for each state to make its own decision as to how it would carry out the obligations of Article X. Moreover, the Council was to take into account, in any advice it might give, the geographical situation and special conditions of each state. At the same time the duty of states to carry out their engagements and to regard the Council's advice as of the "highest importance" was emphasized. Since Persia insisted on voting against the resolution, its adoption by twenty-nine states, while twenty-two abstained, was only of moral value. But the result of the discussion was to shake the confidence of all states in the value of Article X as a guarantee of their security. It was clear that it gave no automatic protection. The actions of states would depend upon the particular circumstances which called it into force.

Meanwhile, similar discussions had been proceeding concerning Article XVI. On the one side was begun an attempt to make its guarantee more precise by working out in advance the methods by which it should be brought into force, thus inevitably increasing the power of the Council. On the other hand, some states, notably the Scandinavian Powers, wished to reduce their obligations and pleaded that geographical considerations and the amount of armed forces at the disposal of the state should be taken into account. These discussions, which were initiated in an International Blockade Commission

set up by the Council in 1921, were prolonged through the first three Assemblies. The more Article XVI was examined, the more extensive seemed to be the difficulties of putting it into force. It was devised by men who were looking at a war situation. It was almost impossible to bring the sanctions into force without re-creating a state of war. Neither the British nor the neutral group were prepared to accept the decisions of others as to their actions if the Article was to be invoked. At the 1921 Assembly, therefore, amendments were drafted which accepted the Council's position as advisory only as to the manner in which the sanctions were to be employed, though it was to be the organ by which the actual fact of their coming into existence was to be announced to the members of the League. Special consideration was to be given to members to whom loss or inconvenience might be caused by joining in the blockade.<sup>1</sup>

These amendments were, however, never ratified, though subsequently modified, in deference to a French view in 1924. The exposed states refused to accept them. But they had served their purpose in revealing the reluctance of many states, including Great Britain, to carry out a policy of sanctions. Like Article X, Article XVI was seen to be not an automatic piece of machinery which would be called into existence by a breach of the Covenant and an act of force, but something which would depend upon the circumstances of each particular case which various states might interpret differently.

Britain's insistence on freedom from Council control was, in any case, a work of supererogation. It was not the use of the sanctions against herself, but the responsibility of using them against others which she feared. But since the Council must be unanimous, Britain must always have a veto on the

<sup>1</sup> Only France and Czechoslovakia have passed laws specially giving their Governments power to enforce Article XVI, though those of one or two other states, including Great Britain, because of the Treaty of Peace Act of 1919, may perhaps possess such power.

Council's action in any such case. The same illogical view had exercised great influence on the United States. The people in both countries tended to look on the Council as something entirely external to their own country, instead of as a centre of co-operation in which their own Government would share and where it would always be able to prevent action if it so desired. Again and again throughout these controversies do we find British and American statesmen and publicists speaking and writing about the League in this way, though the Covenant had already averted the consequences which they dreaded.<sup>1</sup> The same was not true of small states like Norway or Sweden, which might not have a seat on the Council. But the extension of that body, which gives to nearly every group of European states a kind of permanent representation, also takes away much of that danger.

Naturally, these revelations were not relished by those Frenchmen who hoped to erect a permanent and automatic machine for the security of the new Europe. Their fears found expression in the special treaties of alliance between France and the Succession States and the treaties between these latter Powers themselves, of which those binding the "Little Entente" were the most comprehensive. This was a system of security outside the League, and, as some people thought, directly contrary to Articles XVIII and XX of the Covenant. For there are in the Covenant other guarantees that its system shall prevail over the special interests and desires of its members. These are forbidden by Article XX to enter into treaties which are inconsistent with the Covenant and they must get rid of any obligations of such a nature into which they may have entered. Moreover, in order to prevent any secret understandings or alliances of such a kind it is laid down in Article XVIII that all treaties made by members must be registered with the Secretariat and published by it, and that none shall

<sup>1</sup> Similarly Germany secured a vague assurance as to Article XVI when she entered the League, but her real protection is her permanent veto.

be binding if not so registered. This important idea came to Paris from the United States,<sup>1</sup> where public diplomacy had received such support from the words and actions of President Wilson. It was recognized that it was aimed at the whole system of secret treaties and alliances which had been one of the causes of the Great War. The question naturally arises as to what body is to pronounce on the validity of a treaty, if it is challenged. The League of Nations Commission felt itself unable to make an answer. The Court and the Council were suggested as suitable instruments for the purpose, while President Wilson said that public opinion would decide. The answer still remains somewhat indefinite, though clearly the question could be brought before the Court in some form. But the provision was always considered as of the highest importance, and the treaties of France and her allies with their secret military clauses had already been challenged.<sup>2</sup> The First Committee of the 1921 Assembly had, indeed, laid down a number of rules as to the character of the engagements which must be registered, and only the opposition of Lord Cecil had prevented them from being accepted by the Assembly. It was clear that such treaties contained in them a menace to the whole system of the Covenant.

It was no doubt this menace which led Lord Cecil to explore every method by which to satisfy the French, and to make the League system the central authority, which it certainly had not yet become. It was this which led him to agree to the famous Resolution XIV passed in the 1922 Assembly after a debate between him and M. de Jouvenal, in which security and disarmament were linked together. In spite of some protests from the Scandinavian representatives, who pointed out that the obligation to reduce armaments was not in the Covenant made dependent on progress in every other direction, but on

<sup>1</sup> It had also been suggested in some European private schemes, notably in that of the Fabian Society.

<sup>2</sup> The question had also been posed in connection with the abrogation of the Anglo-Japanese Alliance.

the security already obtained by the establishment of the League, henceforward the French thesis was an accepted fact at Geneva. If disarmament was to be brought about, therefore, security must be frund.

This situation led to the plan of a Treaty of Mutual Assistance, worked out in 1923 in the Temporary Mixed Commission which had been set up to deal with the reduction of armaments. It was a compromise between the views of Lord Cecil and those of the French Government, expressed through Colonel Requin. Lord Cecil stood for a general treaty of assistance, the French advocated regional alliances. The Treaty put both together and made disarmament depend on assistance and assistance depend on disarmament. By this means the existing alliances of France and her allies were worked into the general system. The Council was given wider powers, above all, to decide who was the "aggressor" in a quarrel, for the military experts said no general test of aggression could be invented. In the case of obvious or "flagrant" aggression, states were to act on their own initiative, but the Council was to control and ratify their decisions. One notable feature was that assistance was to stop short at continental areas.

This Treaty was pushed through the Assembly much occupied with the Corfu crisis, which had thrown a lurid light on the whole question of security. It met with short shrift when referred to the Governments for approval. France's allies were lukewarm because it did not give them sufficient protection. The neutral states, and above all the new Labour Government of Britain, denounced it as a revival of "militarism" and of the old system of alliances.

Then came the movement for the Protocol which, as has been narrated in the last chapter, added arbitration to security and disarmament. But security was the main thing in it in French eyes and the greater part of the document is devoted to the machinery by which the aggressor shall be determined and the sanctions be brought into force against him. This

was done by the device, suggested earlier by the Scandinavian states, of making the arbitral procedure, which, as has been shown in Chapter IX, was now supposed to cover all disputes, the test of intention. A refusal to accept it accompanied by an act of force automatically determined the aggressor and brought the sanctions into operation.<sup>1</sup> Thus the vexed question of the unanimity of the Council was evaded since the decision was already made. The presumption of aggression was so strong that only a unanimous decision of the Council against it could prevent the sanctions being brought into operation against the guilty state. If, however, there was any doubt as to the question, provisional measures were to be laid down by the Council, acting, if necessary, by a two-thirds majority, such as an armistice, and a refusal to accept these again brought the sanctions into force.

Thus the sanctions were to be "automatic." Moreover, they were to be organized along lines which had been under consideration for some time. Each state took the obligation to carry them out "in the degree which its geographical position and its particular situation as regards armaments allow." The Council was also to draw up plans for financial and economic sanctions against the aggressor, and financial and economic assistance to his victim. States might, if they wished, inform the Council of the military and naval assistance they had promised to bring to particular states if attacked, these agreements being thus brought under the control of the League.

France and her allies had secured a great deal of their objects in the Protocol—but not all. For the obligations on the other states would be still expressed in general though stricter terms. An unofficial suggestion that Britain, for example, should specify the number of men and ships she would employ

<sup>1</sup> The Japanese succeeded in inserting a clause which allowed a question of domestic jurisdiction to be discussed under Article XI before the automatic character of an act of force was recognized, but this procedure was inherent in the Covenant itself.

was hastily dropped. But the sanctions were "automatic," and the system of pacific settlement did, as we have seen, reinforce the *status quo* which France wished to protect. There were and are many who believe that it will be easier to change the *status quo*, if the threat of changing it by force is entirely removed. This idea, however, made no appeal to the new Conservative Government, which had to consider the Protocol. As we have seen, it rejected decisively the whole scheme. It had no wish to accept compulsory arbitration for itself, but it was even more opposed to undertaking further obligations for the security of European frontiers. Above all, it had no wish for sanctions to become "automatic." It wished to preserve the veto which the Covenant gave it.

Security, therefore, remained as far off as ever, but the new Government, moved perhaps at the resentment of France and her allies at this second failure, hinted that, though a system of general guarantees could not be accepted, something might be done along the lines of regional guarantees. They were indeed already considering the question of a special guarantee of the Western frontiers of Germany with France and Belgium. This idea, originally put forward in 1922 by the German Government, was renewed in 1924. By itself it was a great contribution to peace, for it involved the voluntary acceptance by Germany of the loss of Alsace-Lorraine. At one time it was suggested that the United States should act as "trustee" of the settlement, but this was clearly impossible and eventually it was Britain, with whom Italy was associated, which guaranteed it. The essence of the guarantee was that Germany and France (or Belgium) would not attack over the frontier. In case of "flagrant" or obvious aggression, Britain could decide for herself to bring her forces to the help of the party attacked, the Council being immediately summoned to ratify the decision. Should they refuse to carry out their promise to settle disputes without attack, it was left to the Council to lay down what steps should be taken. Action by France and Germany as



legitimate defence, or at the orders of the Council of the League, was not to constitute aggression.

Thus the sanctions were not to be "automatic." They depended on the will of Britain, expressed by herself or by the Council on whose decision she had a veto. In fact, except that the promise of assistance was more definite, the Locarno Treaties left her obligations in exactly the same position as before. But they were a psychological reinforcement of those obligations and they enabled France and Germany to make promises to one another which they otherwise would not have done and brought Germany into the League.

As regards the Eastern frontiers, however, Britain took no extra obligation, the gap being filled by France's guarantees to Poland and Czechoslovakia. This was the most difficult part of the negotiations, for France had always wished to obtain from Britain some special promise about Poland. She failed, but the promise from Germany not to use force in connection with these frontiers (though she did not accept them as just) enabled France and her allies to accept the position.

The effects of the Locarno Treaties were considerable. But those who demanded security were still far from satisfied, and attempts of various kinds have been made ever since to reinforce them. The practice of the Council considered in the next chapter threw a good deal of light on some of the problems of procedure, but the search for an extension of the Locarno system has never ceased. It was considered by the Committee of the Council on Article XI and by the Committee on Arbitration and Security set up in the Preparatory Committee for the Disarmament Conference. The "classical memoranda of M. Politis on the security question and M. Rutgers on Articles X, XI, and XVI of the Covenant did much to clarify the ideas of states on their obligations. It was not possible, however, to draw up a General Act of security in the same way as a General Act of pacific settlement. As M. Politis pointed out, the experience of 1923 and 1924 showed that such an Act

would not be accepted. But model bilateral treaties of non-aggression and security were drawn up, which some states have signed. It cannot be said, however, that these have done much to promote the feeling of security. It is the guarantee of Britain that the smaller powers desire and this they have not been able to secure to a greater degree than the Covenant already gives to them. Against one another, experience has shown that the small states can rely on action by the Council to a considerable degree. But against the action of a Great Power the attitude of the other Great Powers is still a matter of doubt.

One case of assistance has been generalized. An idea, originally proposed by Finland, after consideration by the Committee of Arbitration and Security, eventually resulted in the Treaty of Financial Assistance, which has been signed by thirty-eight states. It is a promise to guarantee loans for a state which is the victim of aggression. That it has been accepted by the British Treasury shows that obligations are not very extensive, but it is an indication of common protection of the innocent party. However small the assistance promised, it makes a "neutral" attitude impossible. It will, however, only come into force if a general system of disarmament is secured.

On the proposition of Germany to the Committee of Arbitration and Security, attempts have also been made to improve the control of the Council over the action of states with a view to preventing hostilities. The suggestion was based on the experience of the Council and eventually resulted in a "Model Treaty" later turned into a "Convention to improve the means of preventing war." By this instrument states would give to the Council powers, which it does not yet legally possess, of prescribing neutral zones between nations, who are in a state of tension towards one another, and appointing Commissioners to see that they are observed. Violation of the orders of the Council would at once bring the sanctions of Article XVI into operation. A real test of the aggressor would be found

in the willingness of states to carry out their obligations. This Convention has not yet been signed by many states, but it undoubtedly adds formal interpretation to practical measures which the Council has on several occasions already used. Unfortunately, it is hardly likely to be signed by those states who are most likely to need the exercise of the Council's power in this direction. But in emphasizing prevention rather than punishment it reinforces what is probably the most fruitful line of development.

Meanwhile the Kellogg Pact had placed the problem on a new footing. Security was to come not from organized sanctions, but from the renunciation by each state of the right to use force. The French, indeed, at first considered that such a promise would sweep away all the sanctions already existing in the Covenant and the Locarno Treaties. But a clause in the preamble which denied the benefits of the Pact to any state which broke it and repeated and fervid explanations of the obvious fact that the right of self-defence could not be abolished helped to soothe their fears. How difficult the situation was, however, is shown by the fact that only after a secret meeting of the legal advisers of the Locarno Powers had demonstrated that the guarantees and sanctions of the Treaties remained intact were the French sufficiently reassured to accept the new and dangerous formula!

The exact bearing of the Kellogg Pact on the problem of security therefore was a little difficult to estimate. But the renunciation of war as an instrument of national policy has undoubtedly made it more difficult for states to pursue a policy of aggression. It is true that in the course of the negotiations the right of each state to be the judge of its actions in self-defence was insisted upon, while Britain added the right to make decisions upon the defence of certain unspecified parts of the globe in which she was interested. But the Kellogg Pact, by associating the United States in a general system, did much to increase the feeling of security, and the use of the Kellogg

Pact in Far-Eastern disputes has shown that the United States, as Senator Borah promised, cannot regard a violation of the Pact as something which does not concern her. From these discussions also has appeared a new doctrine which may be regarded as a restatement of Article X of the Covenant. For in the Manchurian question the United States put forward the principle, subsequently adopted by the Assembly, that no change in political control made by force would be recognized by the other signatories. This doctrine has been much criticized and its final effect has yet to be seen, but it is certainly an indirect way of guaranteeing the territorial integrity and political independence of states against aggression.

The attempt to harmonize the Covenant with the Kellogg Pact has also brought up questions of security. To eliminate the right to use force was simple, but not only did it inspire, as noted in Chapter IX, attempts to insert new methods of compulsory arbitration, but also to use the sanctions of Article XVI against any recourse to force, whether accompanied by a breach of Articles XII–XV or not. The last Labour Government were apparently ready to accept this position, but it has since been criticized as increasing the liabilities of states and the controversy has not yet been settled. The discussion is largely academic, for as has been pointed out, such action will depend on the circumstances of the particular case, and Britain having a veto will certainly not allow Article XVI to be put into force unless she desires it.

Thus security is still something which depends upon the attitude of states towards various problems at a particular period of time. It is submitted that it can never be anything else. The idea of automatic sanctions is unreal since before they can be put into force men must resolve to incur risks and plan considerable enterprises. Such things cannot be done by putting a system on paper. But the attitude of men may be affected by the promises which they and others have made to one another. When these promises represent an enlightened self-interest

they create confidence that they will be carried out. The psychology of security has been much influenced by both the Locarno Treaties and the Kellogg Pact. There is a world public opinion on the question, however difficult it is to organize, and this affects the attitude of the greatest Powers. This is clear, even now when the failure of the members of the League in the Far East to enforce their guarantees by the use of sanctions has made many consider that it has failed in its main purpose.

The problem is much affected by the closely related one of the reduction and limitation of armaments, which is considered in Chapter XII. Guarantees and sanctions that might be adequate to their purpose in a world whose armaments are regulated would fail in one where no such check on individual exploitation of force existed. Before considering this question, however, it is necessary to review the actual practice of the pacific settlement of disputes and the maintenance of security.

## CHAPTER XI

### PEACE-MAKING IN PRACTICE

In civilized society law is the chimney through which all that smoke discharges itself that used to circulate through the whole house and put everyone's eyes out—no wonder, therefore, that the vent itself should sometimes get a little sooty.

MR. PLEYDELL in Sir Walter Scott's *Guy Mannering*, ch. xxxix

PARALLEL to all these discussions and plans for keeping the world's peace there has progressed the development of the League's machinery for the same purpose through actual use. Theory and practice have affected each other, though too often kept apart. Ultimately, all the schemes of statesmen and experts have to be tested by what has actually happened. The success or failure of the League in its various problems will determine the character and extent of the machinery which it can employ.

Since 1920 there have been twenty-nine disputes handled by the Council of the League, not counting one or two minor affairs. One has been referred to the Assembly and it has discussed one or two others. At least nine of them have led to the clash of armed forces, others have been of such a nature as to impair seriously the relations of two or more states. Besides these cases the Council has continually been dealing with Minority questions, one of the most fruitful causes of war, a special problem given to it by various treaties, which is dealt with in Chapter XIII. Continually, also, the Foreign Ministers of Europe have been discussing problems which threatened to lead to a rupture, though some of these have not been officially before it.

The total of work done is impressive. It is indeed difficult to see how the post-war world, still shaken by the storms of an unprecedented struggle, which had left numerous unsolved problems and almost unexampled bitterness and hatred behind

it, could have done without machinery of this kind. There has been great success in many directions. A new technique for the keeping of the world's peace has been evolved which may prove to be the key to all the problems we have been discussing in the last two chapters. Official war, though not recourse to arms, has been avoided since the immediate post-war years. Measures have been taken, sometimes drastic ones, to isolate disputes, provide methods of settlement, organize and concentrate public opinion, and penalize and make impossible the recourse to force.

But this result must not be exaggerated. Peace has been preserved in Europe partly because the victors have had overwhelming force and the generation that fought is tired and worn out by war. There is no guarantee that peace can be maintained as a new generation grows up with its own ambitions, grievances, and unsatisfied energy. Moreover, though the League has been generally successful in disputes in which minor Powers are concerned, it has not been so successful in those in which the prestige of Great Powers has been involved. It is clearly less able to handle disputes that involve Russia, Far-Asia, and America than in those of continental Europe or the Middle East. In some cases, if peace has been preserved it has only been by allowing the stronger party to have much, though not all, of its own way, regardless of justice. In fact the experiment is still proceeding, and no one can say whether the final result will be success or failure.

The reference of disputes to the League has been in almost all cases easily and almost automatically accomplished. There has thus been a great advance on pre-war practice when it was immensely difficult to get dangerous disputes referred to conference, mediation, or arbitration. The prestige of some Power often seemed to depend on a refusal to allow interference in the dispute and third parties had to be excessively careful before they used their influence or authority to intervene. An invitation to a Power which had already committed itself

to some drastic action was considered almost an unfriendly act.

The same attitude has been often apparent during the last twelve years. Powers—especially Great Powers—have been reluctant to state their case before the world tribunal. Poland in the Vilna dispute, Italy in that concerning Corfu, Japan in the Manchurian question, obviously disliked outside interference in a situation in which they were the stronger party. But all had to yield with more or less good grace to the fact that they had committed themselves at least to a discussion of the dispute. Though they might claim that it was unsuitable for such discussion and refuse to submit to the advice or pressure thus publicly exerted upon them, yet they could not avoid it altogether, and it undoubtedly affected their actions, and, still more, the attitude of other states towards them. In most other cases the parties concerned either welcomed the intervention of the League, which sometimes enabled them to draw back from an impossible situation, or did not dare to object to its authority.

There are, as we have seen, various ways by which a dispute or a threat of war can be brought before the Council of the League. But on twenty occasions appeal has been made to Article XI, generally by itself, but occasionally in conjunction with other Articles. Experience has shown that this Article is most easily used and is less likely to give umbrage to either of the contending parties. Whereas Article XV contains a threat that a decision may be made against a party with serious legal consequences, if it is opposed, Article XI is an invitation to join with other states in finding a way out of an impasse. At the same time, the duty that is imposed on the Council "to take any action that may be deemed wise and effectual to safeguard the peace of nations" has been in reserve if the parties have shown themselves stubborn, and in some cases wide powers have been based on it.

Article XV, on the other hand, has only been used twice in



serious cases. In the Corfu case, where it could not be applied, and eventually in the Japanese-Chinese dispute, partly in order to obtain a reference to the Assembly. But the fact that Article XV remained in reserve has been an important consideration, while the procedure laid down in it has influenced that used in the discussions under Article XI.<sup>1</sup>

On two occasions Article X has been quoted (Bulgaria-Greece, 1925, and Abyssinia, 1926). Some cases have come before the Council as a result of a treaty (the Mosul case). In at least one case the Council of the League has simply taken the matter up as part of its general duties without specifying its terms of reference (Bolivia-Paraguay).

Most often one of the parties to the dispute, nearly always the weaker party, has appealed to the Council. On two occasions (Aaland Isles and Serbia-Albania) a third Power has intervened, in both cases Great Britain. This was, however, in the early days when the procedure needed an energetic step to put it into action and is now hardly necessary. In other cases another international body such as the Conference of Ambassadors (Austria-Hungary frontiers and Memel) has referred the matter and once the "Supreme Council," so-called, of the immediate post-war days (Upper Silesia).

At any rate, it is clear that the machinery of the League can be easily called into action. Wherever there has been real urgency the Council, if not in session, has been specially summoned. Previously, the President of the Council has often sent warnings or notices. In one or two cases emissaries of the Council have thrown themselves between the contending factions in the nick of time.

Once the Council has met and the contending parties are seated round the table a great variety of method has been used to find a solution. When hostilities threatened, the great thing was to stop the violence and prevent it from developing into a

<sup>1</sup> Article XV was also used in the Tunis nationality case and in the recent Anglo-Persian dispute.

regular war. The classical case in this respect is the Graeco-Bulgarian dispute of October 1925. The Greeks had then already crossed a recognized frontier line and both sides were reinforcing their troops. At the appeal of Bulgaria, the weaker party, the Council through its President, M. Briand, sent exhortations to peace, reminders of the obligation of the Covenant, and a hint of the consequences of persistency in the evil course. No effort was made to judge the rights of the dispute. Each side, complainer and complainant, was treated alike. When the Council met, these appeals were addressed directly to the representatives of each party. The military attachés of the Great Powers near the scene of action were ordered to the spot as the agents, not of these alone, but of the Council itself. Pressure was brought to bear on the contending Governments from every side, the representatives of the Great Powers at Athens and Sofia reinforcing the advice given by the Council. In this way the two states were persuaded to give orders to stop their troops just as a sanguinary battle was preparing by hereditary foes much heated by the recent incidents. Lines were laid down behind which the troops of each side should retire. Thus peace was preserved.

Meanwhile, the two parties had been confronted with the question as to whether they would abide by the arbitrament of the Council, and after a little hesitation on the part of Greece, had both accepted. To elucidate the facts a special commission consisting of Sir Horace Rumbold, British Ambassador at Constantinople, a Swedish diplomat, a Dutch Member of Parliament, and two Generals (French and Italian). These were instructed not only to find out what had happened and assess the responsibility, but also to suggest measures to prevent similar incidents. By the time their report reached the Council feelings had died down and the whole situation could be discussed judicially and calmly. Greece, having violated a frontier, was considered the guilty party and reparations were assessed by the Council.

In this case every step was taken with great care by the Council. As one of the leading figures expressed it to the writer, "we were determined to take advantage of the opportunity to establish useful precedents for the future." And in anything like a similar case they would be of the greatest value. Unfortunately, however, circumstances rarely repeat themselves, and in some other cases the Council has not been so successful.

An earlier case, 1921, between Serbia and Albania, raised by the British Government, was also completely successful in its main object, but more threats were used, Article XVI even being mentioned in the British note, though the case was under Article XI to which sanctions did not apply. There was some excuse for drastic action, for Serbia had been denying for months the Albanian allegations of intention to attack and the League had therefore refused to intervene. At any rate, Albania was saved from invasion and an incident which might have produced a most serious situation between France and Italy, who were in a sense the protectors of the rival parties, was reduced to due proportions. In the dispute in South America between Bolivia and Paraguay the Council could do little more than exhort. The Pan-American Conference issued similar warnings, and eventually a Commission of Inquiry and Conciliation was set up under its auspices, which, however, only dealt with temporary difficulties, leaving the main issue still unsettled, so that there was a recurrence of hostilities in 1932 and renewed appeals from the Acting-President of the Council. The case is mainly notable because it dealt with a part of the world covered by the Monroe Doctrine and resulted in co-operation between the Pan-American Conference and the League.

In some other cases the Council was not successful in preventing the aggressive Power from reaping the advantages of its act of force. When Poland seized Vilna through the act of one of its generals who pretended a false independence, but who had received his instructions from Marshal Pilsudski himself, the Council to whom the dispute between Poland and

Lithuania had already been referred protested in vain. A military commission which it had already dispatched to the scene was simply disregarded and Poland remained in possession of the object in dispute. Subsequently, indeed, her possession was ratified by the Council without any recognition of the manner in which she had obtained it. Whether Poland ought to have Vilna or not, and admitting that she had had much provocation, there can be no doubt that the method she employed was in direct defiance of her obligations under the Covenant. The truth was that France could not allow the case of her special ally to be judged by principle, while other states regarded Poland as a bulwark against Russia which must not be too much weakened. This is one of the main instances where the members of the Council allowed political considerations to outweigh all their obligations and the excuse generally made for it is that it happened at so early a date and after such complicated events resulting from the war that it could hardly be expected to result differently.

In the dispute between Greece and Italy as a result of the murder of General Tellini and other Italians who were members of an Allied Commission surveying the Albanian-Greek frontier, the issue was a different one. In response to an Italian ultimatum, Greece appealed to the League, but Italy inflicted her own punishment by the bombardment and occupation of Corfu. The situation was complicated by the fact that Greece had accepted the arbitrament of the Ambassadors Conference on the original dispute at the same time as she appealed to the League under Article XV. The Italians were perfectly justified in claiming that by Article XII the Council could not adjudicate on a question now in the hands of another body. But the bombardment was an arbitrary act for which the League should have been able to exact satisfaction. Partly owing to France's preoccupation in the Ruhr, the Council failed to show front and to secure the reference of the question of the indemnity to the Court, but the public opinion focussed

on the dispute through its debates undoubtedly contributed to the withdrawal of the Italians from Corfu. In the end Greece paid reparation to Italy for the murder and received no reparation herself.

This dispute revealed many of the difficulties of applying the system of the Covenant. Italy denied that she was making war and the legal experts who made a post-mortem examination for the Council admitted that reprisals could be used in certain cases. Even more revealing was the attitude towards the use of Article XVI. Public opinion in many countries had claimed that it should be used and the point was seriously considered. But when the problem was put to the Admiralties they could see no way of exerting the economic pressure without first declaring war on Italy, so difficult were the legal problems involved.

The greatest of all the failures has, of course, been in the dispute between China and Japan over Manchuria. There, to all intents and purposes, Japan defied the League for a considerable period, and denied its right to intervene. The impressive mass of public opinion centred at Geneva and Paris, and the fact that the Council of the League was supported by the United States, only seemed to make public opinion in Japan more united than that of any other country, the more determined to resist. The situation was an especially complicated one, since Japan had a treaty right to keep troops in its railway zone in Manchuria, which was only nominally under the control of the Chinese Government. Japan had considerable provocation from China, and altogether the whole situation had become impossible. But this, of course, in no way justified the Japanese military, supported by certain elements at home, from taking the law into their own hands and transforming the administration of Manchuria by force. She undoubtedly violated both her engagements under the Covenant and the obligations of the Kellogg Pact, not to speak of the Nine-Power Treaty signed at Washington in 1922.

The dispute was submitted by China under Article XI, so that the Council could only take decisions in agreement with China and Japan. Japan from the outset disclaimed any idea of conquest, a perfectly sincere promise, since her object was to replace the régime in Manchuria, which acknowledged the sovereignty of China and was hostile to her, by a Government which she could overawe and control. She offered from the first to arrange matters with China directly, which the Chinese, who rightly saw that Japan wished to dictate a settlement, refused. On the contrary, advised by League officials who were in China, the Chinese Government, conscious of its weakness, offered to submit the whole question to arbitration or judicial settlement. Japan having destroyed the authority of the Chinese Manchurian Government and dispersed its army, a state of anarchy arose, the Chinese troops acting on their own initiative under various leaders or becoming simply bandits. It was thus impossible to lay down lines of demarcation such as had been done in other cases and Japan had a good excuse to keep her troops outside the railway zone, in spite of the fact that she agreed to a resolution of withdrawal. Her actions were dictated by military necessities, and she refused all the Council's suggestions for a halt. The conditions she put forward included the recognition by China of her treaties, thus insisting on a settlement in her favour before she withdrew. Eventually, she consented to the appointment of a commission of five neutrals to investigate the whole matter, but only on condition that it was purely advisory and had no power to deal with actual conditions. In its impotence, the Council abandoned the method of public debate and the negotiations were largely conducted in secret meetings between the representatives of the Great Powers and the parties to the dispute. Meanwhile, the fighting went on, a new state of "Manchukuo" appeared under Japanese auspices, and a "Manchukuo" army was organized with Japanese help.

The Council had held three separate sessions dealing with

the dispute, two at Geneva and the third at Paris. The United States had closely co-operated with the League on the plea that the Kellogg Pact was involved, and at the second session, in spite of the protests of Japan, an American "observer" sat at the Council Table. Though the United States had been hostile in the first instance to the dispatch of a League Commission of Inquiry against the wishes of Japan, she subsequently took a stronger line than the Great Powers who determined the position of the Council. While applauding the Council's efforts she also herself remonstrated with Japan, and in January 1932 addressed a note to her which announced that she would recognize no new régime founded on force—an indirect method of supporting Article X of the Covenant. Though Britain, at first, refused to follow this lead similar resolutions were adopted by the Council and by the Assembly, after it had taken the matter up.

Naturally, great tension had developed between China and Japan. A boycott of Japanese goods was instituted in China which did great damage to its trade and which the Nationalist Government was forced to allow and even abet. Indeed, articulate opinion in China clamoured for war. The result was that after attacks on Japanese residents in Shanghai, one being killed, a serious situation arose in the International Settlement. The Japanese Consul-General, on January 21, 1932, sent an ultimatum to the Mayor of Greater Shanghai, demanding punishment of the guilty persons and repression of the boycott. The Mayor was ready to yield, but the Central Government, supported by Chinese public opinion, made preparations to resist. On January 28th the Municipal Council of the Settlement proclaimed an emergency as a consequence of which the troops of various Powers were called upon to take up their stations. The Japanese troops immediately became involved in hostilities which resulted in heavy casualties and great destruction of property in the northern part of Shanghai, the Japanese bombing from the air to overcome the unexpected resistance.

China now appealed to the League under Article XV. The Council made renewed efforts to mediate, but again Japan refused to withdraw. The legal position was clearer than in Manchuria, but it was complicated by the fact that the fighting had resulted from a state of emergency in the Settlement. At the request of the Secretary-General a Committee of the Consuls of the Great Powers at Shanghai was constituted to inform the Council of the course of events. That body took up a more pronounced attitude than it had shown on the Manchurian question, and on February 16th the twelve members sent a warning note to Japan which in effect supported the thesis already laid down by Mr. Stimson. Japan's reply protested at discussions in the absence of parties and claimed that the note should have been addressed to China. She herself, she said, was only acting in self-defence. Moreover, she refused to recognize "that China is an 'organized people' within the meaning of the Covenant."

By this time, however, China had asked that the dispute be transferred to the Assembly under paragraph 9 of Article XV. She hoped for greater support from the smaller Powers than she was getting from the Great Powers on the Council. The Assembly could easily meet because almost all its members were represented by leading statesmen at Geneva for the Disarmament Conference then proceeding. It easily constituted itself into an effective machine under the presidency of M. Hymans, who had presided at the First Assembly. Practically all the speeches made in the Plenary sessions were in effect condemnatory of Japan's action at Shanghai, the smaller European Powers showing their anxiety lest the precedent should weaken their own position. It was significant also that representatives of the Dominions associated themselves strongly with this point of view. But though the Assembly was obviously sympathetic to China's claim to protection it could do nothing but encourage the efforts already being made by the representatives of Britain, the United States, and France at Shanghai



to bring about a settlement. The resolution, finally accepted by all the forty-six states represented except China and Japan, reaffirmed the principles of Article X and XII and declared "that it is incumbent upon the members of the League of Nations not to recognize any situation, treaty, or agreement which may be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris." It also appointed a "Committee of Nineteen," adding M. Hymans and the representatives of six other states to the twelve members of the Council, which was to exercise on behalf of the Assembly the powers conferred upon it by Article XV. The strength of public opinion helped to prevent China from yielding to Japan's demands for the cessation of the boycott or the erection of a neutral zone round Shanghai. It was, however, the realization of Japan that she had committed a fatal blunder that eventually induced her to withdraw her troops after at last overcoming the resistance of the 19th Route Army on the difficult terrain on the outskirts of Shanghai. The Shanghai incident therefore contributed nothing to the settlement of the major differences between China and Japan. It was not, indeed, premeditated by the latter in the way the action in Manchuria had been designed by her military authorities.

Throughout these incidents there had been many voices urging the application of sanctions to Japan. But none of the Great Powers in the League showed the slightest sign of yielding to it. The problem of dealing with a Great Power on the other side of the world was too formidable to be faced. The prestige of the League was seriously weakened and the sense of insecurity much increased by the incident. It was clear that not only Britain, but even more France, the champion of sanctions, was not prepared to take any risk on behalf of China. The usual excuse of the uncertainty as to the United States could not be pleaded in this case. The interests of Britain and America were indeed identical.

Public opinion amongst the smaller nations was seriously

disturbed. But it is idle to think that small states like Switzerland can contribute much to the solution of such a crisis. They are, in fact, not themselves ready to take any of the risks which they urge the Great Powers to assume on behalf of a weak Power. The tragedy is that if public opinion amongst the Great Powers were really united on the necessity of stopping such aggression as that on Greece at Corfu or on China in Manchuria, the risk would disappear, for the guilty party would either have to give way or be overwhelmed. But there was no such unity and thus no such action could be contemplated.

It must be pointed out, however, that the Manchurian crisis was exceptionally difficult. China's condition was chaotic, her control over Manchuria only nominal, though legally indisputable, while Japan's treaty rights to police her railway system brought Chinese and Japanese troops and subjects into daily contact. Such a régime could only persist with good will on each side, and the two peoples disliked and despised each other. Two of the Great Powers most closely involved were not members of the League.

Moreover, the issue was precipitated in large part by the financial and economic crisis of the times. The South Manchurian Railway could no longer tolerate the competition of the Chinese railways in which it had hitherto acquiesced. The same crisis made the European Powers unable or unwilling to take a strong attitude towards Japan.

These explanations, however, only serve to show how much is yet to be done before a system of pacific settlement can be considered as even tolerably satisfactory. Such a system, if it is to command confidence, must function under the worst circumstances. It is then that it is really needed. The Manchurian crisis showed that the system cannot yet be regarded as a protection of the weaker Power even when the interests of the Great Powers would be served by it, when the risks of intervention are serious as they undoubtedly were in this case.

Public opinion was throughout confused. Many of those

who wished the League's authority to be established shrank from using force. There seemed to be little recognition of the fact that there were many stages between using force against Japan and simply allowing her to have her own way. It was the United States which sought most consistently for this middle way, and she tried to get world public opinion to assist her by means of the League. There was but little opposition to this policy in the United States even from extreme anti-League elements, so strong was the feeling against Japan, but, of course, the temporary adhesion of the United States was not the same thing as if she was permanently a member of the League. The Powers whom she sought to associate with her against Japan had no guarantee that she would assist them in other circumstances. Nevertheless, her co-operation with the League is one of the most significant features of the incident and may lead to even greater developments affecting the whole machinery of world peace. Meanwhile, as is related below, the League Commission, though acting with great deliberation, was preparing a report which was to place the whole matter on a new footing.

Let us now turn from the task of preventing war after an actual rupture has broken out to the question of making decisions. Here there are great advances to be recorded. Where the dispute, however embittered, is not likely to lead to an immediate rupture the procedure has always tended to be leisurely, giving opportunities to the parties to find their own solution after discussion has thrown light upon the dispute and upon the attitude of others towards it. Since in most cases the Council had no power to impose its own will, it had to endeavour to conciliate the parties and to explore every avenue to find a solution. Many of the tangled problems submitted to the League process could hardly have been solved by any less flexible and authoritative body. Those who imagine that some simple system of arbitration by which all kinds of disputes are submitted to the same process should study the

variety of human stuff submitted to the Council, and the difference of method that had to be employed. Not all, of course, were solved satisfactorily, but of the failures the cause of some can be traced, and will probably lead to better results in the future. We have here, in fact, a laboratory of political science, in which some interesting experiments have been made.

The Council, as we have seen, is accustomed to work through *rapporteurs*. One of these is appointed for each dispute and often plays an important part in bringing the parties together. The task is sometimes a very thankless one, and it is not surprising that the *rapporteur* should often have to appeal to his colleagues for support. Sometimes a "Committee of Three" is instituted, chosen like the *rapporteur* from disinterested Powers. Occasionally, the representatives of the Great Powers have constituted an informal committee and this course would seem to be especially probable in a case in which another Great Power is involved.

The Council has tended to place the actual decision of the dispute in other hands, and to endeavour to limit its own task to that of disentangling the issues and referring them to appropriate bodies to decide. The first step is to distinguish between issues of law and issues of fact that need special knowledge.

For issues of law the Council nearly always now uses the Court. In its earlier days a body of legal advisers was sometimes constituted, but their advice was not authoritative, and did not always win public respect. But an Advisory Opinion of the Court is, as we have seen, really a decision on the legal point concerned. Yet issues are rarely so simple that a legal solution covers the whole case. The Court itself shrinks from judgments which involve something else than declaring the law. There is also the application of the law which needs political experience if too harsh a solution is not to be prescribed. Here the Council can play a useful rôle in en-

couraging the parties to treat the legal decision in such a way as to make a settlement which neither of them regards as an injury.

For issues of fact the obvious method is a Commission of Inquiry composed of persons who by their profession, experience and nationality give a guarantee that an impartial investigation will be made. This was used in the first case that came before the League—the Aaland Isles. The most successful of these commissions was perhaps that used in the conflict over the Mosul Vilayet between Iraq, for which Britain as Mandatory Power conducted the case, and Turkey. The Commission, composed of a Hungarian Jurist who had held the office of Prime Minister, a Swedish diplomat, and a Belgian soldier, conducted its inquiry with such energy and independence as to rouse the protests of the British Commissioner. It immediately asserted its authority in uncompromising language, and in doing so made a useful precedent. Its task of finding out the wishes of such a population, backward, illiterate, and composed of different races, as inhabited Mosul was a most difficult one, but it convinced the world of both its efficiency and impartiality. Thus the award to Iraq was accepted and a controversy in which all kinds of improper motives had been alleged was placed on a satisfactory footing. The Council had merely to ratify the findings of the Commission of Inquiry in a decision which Britain applied with such consideration towards Turkish interests and feelings that an amicable settlement was effected.

The inquiry which the Lytton Commission of Five, composed of representatives of Britain, France, Germany, Italy, and the United States, had to carry out in Manchuria was far more arduous and intricate. It involved surveying the whole Far-Eastern position, as well as the peculiar circumstances of the newly determined state of "Manchukuo." The Commission was not appointed until a late stage of the dispute, and it took some time to organize. The situation had, therefore, hardened before

it appeared on the scene. From an early stage Japan announced unofficially that a recommendation adverse to her interests would not be accepted and would probably cause her to withdraw from the League. She, indeed, anticipated the findings of the Commission by recognizing "Manchukuo" shortly before the report appeared.<sup>1</sup>

Nevertheless the Commission pursued its inquiry with unflinching purpose and produced a unanimous report which immediately made a deep impression on public opinion in all countries. While not glossing over in any way the mistakes of the Chinese people and Government, and doing full justice to the great interests of Japan in Manchuria, it revealed in unmistakable language the methods which the Japanese had pursued to attain their ends and the sham nature of the puppet Government which they had set up. At the same time its report was written in the true spirit of Article XI, under which it had been dispatched, and it made wise proposals for a new settlement of the whole situation in the interests of both China and Japan. While advising that Chinese sovereignty should be maintained it suggested that the two Powers should reconcile their interests by a series of treaties negotiated under the auspices of the League with the object of protecting Japan's economic interests in Manchuria and putting an end to the friction between the two peoples. Though immediately denounced in Japan, and by no means entirely accepted in China, the report, couched as it was in studiously moderate and yet unequivocal language, was warmly approved in most other countries, including the United States.

But such great issues hung on the question that the report of a Commission by itself could hardly be expected to settle them, and the final result had to depend on how far the Great Powers in the League, in conjunction with the United States, maintained the obligations they had taken under the Covenant

<sup>1</sup> This action was condemned in the "Committee of Nineteen" by its President and other members at a session during the 1932 Assembly.

and the Pact towards a chaotic China which obviously could not defend itself in this case. Their interests as well as their honour were involved. But the task of defending them was an immense one in face of the determination of a highly organized military Power in the hands of its extremists, supported by a great mass of public opinion, which considered the whole future of Japan to be at stake.

In other cases the Council, while employing its *rapporteur* to collect and verify facts and negotiate with the parties, has itself gone into the whole question in dispute. The most notable of all its cases for longevity and tediousness was that of the question of compensation to be paid by Roumania to those Hungarians who, having opted to retain their Hungarian nationality and leave the country, had their estates confiscated and distributed amongst the peasants in accordance with a law which affected all holders of estates in Roumania, known as the case of the "Hungarian optants." It was claimed by Hungary that, according to the provisions of the Treaty of Trianon, the compensation should have been at once assessed by an arbitral tribunal, and its amount would have been very considerable. Moreover, it would have established a precedent for compensation to other landowners. Roumania thus refused to accept the tribunal, while Hungary demanded that it should be constituted without her consent. A legal decision might have given Hungary all she demanded, but Roumania asserted that she had never meant to agree to such claims and that to yield would involve her in ruin. The case was argued under Article XI, paragraph 2, since there was no threat of rupture, and the consent of both parties to every decision had to be obtained. One of the two sides always refused the expedients suggested and for session after session the Council submitted to the brilliant and fervid oratory of Count Apponyi and M. Titulesco, who defended their respective countries with great skill and passion. No result could be reached, but the fact that the Council was ready to listen and advise was of great importance.

It enabled the two parties to maintain diplomatic relations and served as a vent to the feelings of the two peoples. Eventually, the Council was rewarded for its patience; for the dispute was finally settled as a part of the general reconsideration of debts made in connection with the Young Plan.

The Council has also dealt directly with several disputes between Greece and Turkey and its aid certainly contributed to the notable *rapprochement* between those two countries. It also dealt directly with the Upper Silesian question through a committee of its own members who were supposed to be "neutral" in the dispute. In this case, however, as in that of Vilna, the Council did not convince public opinion that it had acted impartially, though there was much to be said for the compromise which it sanctioned, after much subterranean discussion, and the ingenious machinery which was devised for the "industrial triangle" so ruthlessly partitioned. This case was, however, an early one, and to-day there would almost certainly be employed a more scientific and technical body to inquire into it and submit a report on which the Council's decision would be founded to a considerable degree.

The Council, indeed, always tries to avoid a responsibility which is often inconvenient to some of its numbers who have no desire to offend either of the contending parties. But while this can be done in secondary questions, in major disputes, such as those described above, the Council cannot delegate its authority. It may use the Court for points of law or a Commission of Inquiry for fact, but where the issue is so great that war may result, it must make the decision itself. For it is the Council on whom the responsibility falls for maintaining peace, and on the decision the question of peace may rest. In these circumstances no wonder the Council has often preferred to take a course where peace could certainly be preserved, even at the expense of justice. This is especially the attitude of the Great Powers on whom the responsibility really falls. In some cases, as in that of the Japanese action at Shanghai, they took the



question out of the hands of their colleagues (a course in a sense made easier for them by reference to the Assembly contrary to the expectations of the Chinese). No Great Power is, as yet, prepared to allow a really equal voice in a major settlement to smaller Powers whose interests are only directly affected to a small degree, and who are not prepared to bear the consequences of the rupture that may ensue.

We are thus far off a system in which ideal justice between state and state is enforced by the common will of all. The system of the League has on many occasions failed to do more than prevent a serious rupture, resulting in avowed war. It has had to resort to subterfuges and compromises in order to preserve its own prestige and that of some Power obviously in the wrong, yet unable for reasons of policy, however mistaken, to give way without coercion. It has thus laid itself open to the criticism of many who are ready to lay down all manner of rules to ensure that justice is done as well as peace maintained. Obviously, there might at any time come an issue in which the maintenance of justice was so important that the sacrifice to it of immediate peace by coercion of a Great Power would be a smaller evil. Some people would maintain that such issues have already occurred in the case of Manchuria and Corfu. But though unwise and unjust things have been done, they have met with an opposition and criticism unknown before the League system was in operation. A policy of crude reliance upon force is obviously harder to carry through than under previous systems. Neither the system of alliances nor the Concert of the Powers has rallied the force of public opinion so immediately or so directly as the system of obligatory conference, which is the heart of the Covenant. In spite of the absence of the United States and the terrific strain of the post-war economic crises, the system has been preserved, and with it the peace of the world. Such real improvements that have come about in the relations of the Powers can often directly or indirectly be traced to it. Time has been given at least for the instincts of

self-preservation to develop and for states to learn something of that enlightened selfishness on which we must rely for a wiser attitude towards international affairs.

Moreover the new attitude of the United States towards co-operation with the League and the declaration of the Secretary of State alluded to above have transformed the whole question of united action against an aggressor. Under the Kellogg Pact she is tending to take obligations as onerous as those of the Covenant. In view of these promises the old system of "neutrality" seems to be finally disappearing. With this phenomenon a new era in the development of the League may be approaching.

## CHAPTER XII

### THE REDUCTION AND LIMITATION OF ARMAMENTS

It is impossible not to perceive that the settlement of a scale of force for so many Powers under such different circumstances as to their relative means frontiers positions and faculties for rearming, presents a very complicated question for negotiation; that the means of preserving a system, if once created, are not without their difficulties, liable, as all States are, to partial necessities for an increase of force; and it is further to be considered that on this, as on many subjects of a jealous character, in attempting to do too much, difficulties are rather brought into view than made to disappear.

CASTLEREAGH to Alexander I, 1816

Proposals have been made from time to time for the mechanical limitation of armaments, as one may call it. Under such a scheme vessels of war, for example, might not exceed a certain tonnage or guns a certain calibre. We do not think this method is within the range of practical politics.

SIR FREDERICK POLLOCK, *The League of Nations*, 1919

THE first official suggestion for a general reduction of armaments was made in 1816 by Alexander I, Tsar of Russia, to Castlereagh. But it never got farther than a vague proposal, and though the idea recurred from time to time, the only other ruler of the nineteenth century until 1899 who seriously considered schemes for general disarmament was Napoleon III. In 1849 he was ready to make a naval agreement with Britain; in 1863 his great plan for a Congress included proposals for the general reduction of armaments; in 1869-70 he secretly through Britain tried to get Prussia to agree to a simultaneous reduction of its army with France. There was no inclination on the part of the Powers approached to meet him in any way, with the result that in the last quarter of the nineteenth century the armaments of the Great Powers grew vaster and more expensive year by year.

Nicholas II suggested reduction of armaments as the principal topic of discussion for the Hague Conference of 1899. But none of the other Great Powers were ready to accept the proposal, and all that the Hague Conferences could do was to suggest restrictions on the use of certain weapons, such as submarines, gas, or floating mines, or of specially brutal methods, such as the bombardment of open towns or from the air—restrictions which did not even then win full approval and did not survive the test of the Great War. The growth of armaments, both naval and military, continued at an ever-increasing pace, and the fear and suspicion that they produced were one of the main causes of the final catastrophe.

For the problem of armaments affects the whole life of the nations. The character and education of the male part of the population are profoundly influenced by the fact of conscription. Germany has produced during the last twelve years sufficient evidence of the far-reaching result of its abolition. Moreover, in the principal industrial states the armament industry is large and highly organized. All Governments have tended to employ and encourage private firms so that there might be a reserve available. They have not even resented the sale of arms by their own nationals to states that might be their enemies. In the Great War many British and Germans were killed by weapons their own countrymen had forged. These firms have in the past, by their influence on Governments and by the use of a subsidized Press in some countries, helped to produce a state of affairs in which armaments and consequently their own profits tended to increase.

There is thus an obvious reason to abolish the private manufacture of arms, but as many countries do not possess state factories they would be deprived of all weapons unless other states were allowed to supply them from their state factories. This problem has never yet been solved, but it may be in part alleviated by the methods of publicity and control of *all* armaments now being considered.

During the war there was a good deal of academic discussion of limitation of armaments, which eventually was taken up by those in power, especially by Colonel House, President Wilson, and General Smuts. French opinion ran rather in the direction of the organization than the limitation of armaments. President Wilson adopted the idea as one of the Fourteen Points, which reads: "Adequate guarantees given and taken that national armaments will be reduced to the lowest point consistent with domestic safety." It thus became a basis for the armistice with Germany—a definite promise by the victorious Powers, including the United States.

One part of that promise was carried out to the fullest extent in the disarmament of the defeated Powers. Much has been said since of the principles on which the Allied Powers acted, but the object was really a simple one—to render Germany (and her allies) completely defenceless for the future on the assumption that the victors retained the use of modern weapons. The naval clauses of the Treaty were based on a British draft, the military and air on a French draft, and each had simply considered how they could remove as completely as possible any possible danger from their terrible foe, whom they had taken four years to overthrow in spite of a great superiority of men and resources. There was thus no thought in the minds of those who prepared the drastic clauses of the Peace Treaties of laying the foundation of a complete and scientific system of reduction and limitation of armaments which could be applied to all nations. Indeed, the sailors and soldiers who drafted them would have been shocked at the idea which they could scarcely contemplate. Many of them did not believe that the system could be successfully applied for any long period. Thus, though the disarmament of the enemy Powers was a tremendous precedent, it was one difficult to apply when the problem of world disarmament came to be faced. The scientific study of disarmament problems had not even been begun in 1919.

Reduction and limitation may be applied to five different

categories—to man-power, to organization, to material, to money, and to position. Thus, numbers of men, their terms of service and methods of combination, the weapons they use, the money which pays for them, may all be limited, while various geographical areas may also be designated as under special limitation. In addition, there are the problems of the control of civilian industry in order that it may not contribute to military power, and that of the general control of the whole system which is set up. These methods can be applied to land, sea, and air forces. The total complex of problems is obviously a vast one.

All these methods, but one, were applied to the defeated Powers. The numbers of men were limited—in Germany's case to 100,000. The number of officers was also limited. Conscription was abolished and voluntary long service introduced. This last device was almost entirely due to Mr. Lloyd George, and shocked the soldiers who had to apply it. It was well meant as a blow at militarism, but it prevented an experiment in the limitation of conscript armies which might have been even more valuable. The whole organization of the army was prescribed. The Great General Staff was abolished. Voluntary formations were forbidden.

Even more drastic was the limitation in weapons. Germany was forbidden battleships and submarines. The rest of her fleet was strictly limited. A maximum of 10,000 tons was laid down for her cruisers—a purely arbitrary and unfortunate figure—and by sheer oversight no limit to the size of the guns upon them. On land, Germany was forbidden all heavy artillery and tanks, while her armament of light artillery, machine-guns, and rifles was strictly limited, including stocks in reserve. All military air forces were forbidden, and for a period civilian air organization was limited.

Curiously enough, there was no attempt to limit the money to be spent on armaments. Geographical limitation included the demilitarization of the Left Bank of the Rhine and other areas

and the opening of the Kiel Canal. Control of civilian factories was extended to the demolition of the tools for making weapons and to permanent restrictions on such factories, including chemical factories. A system of supervision by foreign officers was set up to ensure that the whole scheme was carried out which was to continue until the League of Nations was ready to accept the responsibility.

This drastic scheme was more successful than some of its authors dared to hope. It has certainly been evaded at a few points, especially as regards voluntary formations, which could not be entirely suppressed, but in its main essentials it was carried out completely. Germany, deprived of the most modern and efficient weapons, was helpless in comparison with her enemies, who retained and developed them. Her weakness in the air alone was sufficient to render her defenceless before France. The withdrawal of the Allied Supervising Commission was a recognition that their task had been fulfilled.

Germany made little protest against this part of the Treaty of Versailles, for she was then in the hands of men who hated militarism. But she asked that the same process should be applied to the victors in accordance with the armistice terms. She got in return promises of general limitation and reduction both in the Treaty itself and in the final accompanying letter. Not, it should be noted, necessarily on the same scale. There was no promise of equal reduction as Germans have continually claimed.

The machinery for this reduction was naturally placed in the Covenant itself. By Article VIII, the members recognized their duty of reducing armaments "to the lowest point consistent with national safety and the enforcement by common action of international obligations." The replacement of the word "domestic" by "national" is significant, for it includes defence against outside enemies as well as the maintenance of internal order. The Council was to formulate plans for the consideration and action of the Governments, whose consent had, of course,

to be obtained. It was, moreover, laid down that "the geographical situations and circumstances of each state" should be taken into account. Once the plan had been accepted the Governments promised not to exceed the limits laid down without the consent of the Council. The plan was to be revised every ten years. A special clause was inserted regarding the evils of the private manufacture of arms. Finally, the members of the League agreed to interchange "full and frank information" of their armaments and the industries which made them possible.

By Article IX a permanent commission was set up to advise the Council on military, naval, and air questions. This was all that was left of the grandiose French scheme for an international army under the League, or at least an international staff which should ensure the application of sanctions.

As we have seen in preceding chapters it was long before the members of the League made any real attempt to carry out their promises to Germany, or to implement the plan laid down in Article VIII. The permanent Military Commission, composed of representatives of the General Staffs, adopted a purely negative attitude to all suggestions of limitation and reduction. It was hardly likely that they would take the initiative for the reduction of their own forces, and they were more conscious than civilians of the great difficulties to be overcome.

It was to individuals like Lord Cecil, backed by representatives of the Scandinavian Powers and a vague public opinion throughout the world, that was due the establishment of the Temporary Mixed Commission. This included, besides military experts, politicians and representatives of capital and labour. It began to suggest schemes of limitation and reduction the crudity of which the soldiers and sailors had no difficulty in exposing, though some of them have not been without effect on recent discussions. It was also diverted to the question of security and, as has been seen, drafted the Treaty of Mutual



Assistance. But its great importance was that it began the education of civilians in the technical side of the question, including some men of importance who felt deeply on the problem. That process has been gradually extended during the last twelve years until now there are in many countries some civilian leaders who can argue with the experts in their own language. This was the only way by which the General Staffs, whose assistance on the technical side of the problem was indispensable, could be gradually brought to a state of mind which made some general scheme possible.

There were, of course, amongst the soldiers, sailors, and airmen, many who were conscious of the necessity of limitation, and were anxious to get some scheme put into force. But they tended to look at the problem almost exclusively from the point of view of their own country. They wished to retain the methods and weapons which suited their own traditions and plans while reducing or abolishing those which especially threatened them. When they were left to discuss the problem by themselves, therefore, it was inevitable that deadlocks immediately arose which could not be resolved. Each expert considered that the security, indeed the whole future of his country, depended on obtaining his own method. It was only when the experts were controlled by statesmen, more conscious of the importance of the end in view and responsive to the public opinion which desired it, that any progress could be made at all. Even then it was only made with great difficulty; for the technical problems were exceedingly difficult. Immense progress had been made in the weapons of war during the great struggle, and the impetus thus given extended into the peace. New inventions had revolutionized the art of war. Could the same effort have been made in 1899, the task would have been far easier. It was not, however, these technical difficulties which were the main obstacle to progress, but, as has been seen, the refusal of France and her allies even to consider the problem until further provision was made for their security.

Meanwhile, however, the naval situation was acute. President Wilson had deliberately aimed during the war at creating a fleet the equal of that of Britain so that he might force her to accept limitation. His Republican successors took up this plan, not under the League, as he would have done, but in a special conference at Washington in 1921, and achieved a considerable measure of success. For in the two vital points of battleships and aircraft-carriers, the fleets of the great naval Powers were reduced by the destruction of old vessels and those in the course of construction, and limited, Britain and the United States agreeing to equality or "parity," while Japan, France, and Italy accepted inferior ratios to them. The unfortunate figure of 10,000 tons and 8-inch guns was laid down as the limit beyond which vessels were to be considered battleships, again a purely arbitrary figure based on the fact that a number of cruisers of nearly that tonnage had just been built or been building. The extreme limit of the battleship was placed at 35,000 tons, which covered all ships in existence, except one British for which an exception was made. Thus the limitation, while a great achievement, accepted the huge advance recently made in size both in battleships and in cruisers as a permanent feature—a fact which the British Admiralty at a later date was bitterly to regret. Moreover, France only accepted her inferior position because of the weakness of her fleet, and resented the equality in which she was placed to the Power that was now her most serious continental rival—Italy. Neither France nor any other Power but Britain would consent to abolish submarines, and though a treaty condemning their illegitimate use against commerce was signed, it never received sufficient ratifications. Partly as a result of this attitude there could be no restriction on the number of cruisers and on destroyers and other lighter vessels.

The Washington Conference therefore only solved a part of the naval problem and that at the cost of stabilizing a battleship

and cruiser size which was to be a source of great difficulty in the future. As for land and air armaments, nothing could be done at Washington, and, though treaties were signed against chemical warfare and bombardment from the air, these also did not secure sufficient ratifications to bring them into force. One other feature of the Washington Conference was, however, of great importance. Geographical limitation was applied to the Pacific, fortified naval bases on its islands being restricted.<sup>1</sup>

The Washington treaties with all their defects at least made some progress in solving the problems of naval armaments, while the League organization had, as yet, done nothing at all. The Temporary Mixed Commission had indeed produced one or two suggestions, but these had secured little support, except proposals to limit the arms traffic which it investigated in 1924. As a result a special conference was called to deal with the International Trade in Arms, Munitions, and Implements of War, in May 1925, which drew up a convention on the subject. Its object was to ensure publicity and control and to forbid the export of arms to territories inhabited by uncivilized races. This was an advance, but it did not, of course, tackle the greater question of the supply of arms to Governments by the armaments firms. A protocol forbidding chemical and bacteriological warfare was also drawn up, largely at the instance of the United States and Britain, since that signed at Washington had not come into force. Unfortunately, these instruments also failed to receive the ratification of a sufficient number of states. Moreover, all attempts made by a special commission appointed by the Council, which extended over many years, to extend the Convention by ensuring the publicity of all arms manufactured by Governments as well as by private firms, failed to produce agreement, and the problem was finally

<sup>1</sup> Though Singapore and Honolulu could still be developed, the security of Japan was made greater by the fact that the bases of the only two Powers which could attack her were so far removed from her shores—a fact of great importance in the developments of 1931-32.

left without much assistance towards its solution to the Disarmament Conference itself.

After the discussions on the protocol, a Co-ordinating Committee, composed of the representatives of the Council and a number of technical experts, had been set up to take up the work, but this body had failed to function. The failures were resented in many countries, and each year in the Third Commission of the Assembly the grievance had been ventilated. It was not, however, until after the Locarno Treaties had come into sight that a serious attempt was made to tackle the problem. Then in response to a resolution of the Assembly the Council set up a "Preparatory Commission for the Disarmament Conference," the body which eventually prepared the Draft Convention for the Conference of 1932-33. On it were represented not only the states members of the Council, but six other countries who might be considered specially interested, Bulgaria, Finland, Yugoslavia, the Netherlands, Poland, and Roumania, while the United States, Germany, and Russia were also invited to send representatives. The first two immediately accepted, Russia only in 1927. Turkey later also accepted an invitation. As other states became members of the Council they were automatically entitled to send representatives to the Commission, while retiring states retained their membership. The Commission thus eventually consisted of twenty-seven members, representing all the states in the world who possessed considerable armaments—and some others.

Above all, the Commission obtained the services of a number of individuals who had the energy, patience, and courage to carry through their difficult and ungrateful task. Foremost amongst these was Lord Cecil, who represented Britain, except for a short interval. More than any other man he was responsible that a draft, however imperfect, was at last obtained. Mr. Hugh Gibson represented the United States throughout in a most sympathetic and conciliatory manner. Other notable personalities were M. Paul-Boncour for France, though her

main work was done by M. Massigli, and M. Brouckère for Belgium. The Chairman was Jonkheer J. Loudon of the Netherlands, not always a model of tact, but sufficient for his position. Count Bernstorff represented Germany, a difficult task, for he had continually to demand that the German restrictions should be applied to the other Powers who had never the slightest intention of accepting them. M. Litvinov seemed thoroughly to enjoy the opportunity which his position gave him of exposing "capitalist" hypocrisy. This he did by presenting sweeping measures, including one for complete disarmament. In spite of the offensive observations which he constantly interpolated, he was treated with great patience and courtesy by the other members, and occasionally he, and his successor M. Lunatcharsky, so far forgot themselves as to make real contributions to the discussions.

The Council confronted the Commission at the outset with a list of questions which sketched the formidable problems they would have to meet. Owing to French influence these included not only the problems dealing with actual armed forces, but also those connected with adjusting the "potential" armed strength of a state, such as its industries, railways, geographical situation. So complicated indeed was the questionnaire that some people imagined that it had been made so intentionally in order that no progress might be made.

It is, of course, an undeniable fact that a state with great industrial resources is potentially more powerful for war than one which does not possess them. In the case of Germany this problem was met to some extent by limiting the factories allowed to make arms. It is impossible, however, to limit factories engaged in supplying peaceful needs which could be diverted to other purposes if war breaks out, as was done on so large a scale during the Great War. But such a transformation cannot be quickly effected. There is a "time lag," which in most cases amounts to twelve months, before shells can be manufactured, chemicals turned into gas shells, aeroplanes adapted to be

bombers of any real efficiency, and similar transformations.<sup>1</sup> Thus the striking force of a country can be definitely controlled if limitation and control of armaments is instituted, though some supervision of civilian establishments, especially chemical ones, may be necessary. Civilian aircraft stands in a position by itself, and needs special treatment.

In any case, this controversy only marked a cleavage which was always apparent between what might be called the Anglo-Saxon view, that some things which could be put into effect should be done at once, and thus progress gradually made towards a more complete scheme, and the French or continental view, that all problems were interconnected and could only be solved if all were considered at once.

The Preparatory Commission at once handed over many of the technical problems to a Sub-Commission A, composed of military experts, others were referred to a Sub-Commission B, composed of economic experts, while some, entirely political, were referred back to the Council itself. Sub-Commission A made heroic efforts to answer the questions. But the experts of each country naturally took positions which they thought would ultimately lead to the kind of scheme suitable to what they conceived to be their own national interests. Thus, after many weeks' discussion their reports revealed great difference of opinion. Nevertheless, this analysis of the technical problems was the starting-point for all subsequent discussion, and did an immense amount to educate the civilians in the various naval, military, and air problems. Sub-Commission B, meanwhile, had been considering, largely through sub-committees, such problems as model budgets, so that the amounts expended by the different countries could be compared, and the control of the chemical industry.

In spite of the large differences of opinion thus revealed, the Council on December 23, 1926, in response to a resolution of the

<sup>1</sup> Major Lefebure's *Scientific Disarmament* deals with this problem very effectively.

Seventh Assembly, directed the Preparatory Commission to prepare for a Disarmament Conference in the near future. In order to make this possible, Lord Cecil submitted a Draft Convention to the next session of the Commission. The French immediately produced another, and the differences between the two were so great that they hardly agreed on a single point. On such fundamental questions as the limitation of reserves, limitation of fleets by "global" tonnage, or in separate categories, such as battleships, cruisers, etc., budgetary control, and many others, the two countries were diametrically opposed to one another. It was thus absurd to summon a conference in which disagreement was certain on almost every point. Moreover, a number of technical questions had as yet been insufficiently explored, and it was possible that further analysis and research might lead to compromise on the part of the Powers most interested. Thus, for a considerable period the Commission marked time.

Meanwhile, the naval question had again become acute. A conference of the smaller naval Powers at Rome had completely failed. More important was it that Japan and Britain had begun to build cruisers which tended inevitably to be of the 10,000 tons maximum allowed by the Treaty. The United States found itself in a situation of inferiority which it had either to endure or correct by building likewise. The British Admiralty had, it is true, already realized that smaller cruisers would suit its interests better than the new ships; but the mischief was done, and, as the Preparatory Commission was blocked by France's demand that naval tonnage should be limited "globally," which reduced the discussions to a farce, President Coolidge conceived the idea of summoning another conference on the Washington model to complete its work.

France and Italy refused, but Britain and Japan accepted. The Geneva Conference of 1927 was, however, a complete failure. Britain was ready to admit the American claim to "parity" in all ships, but she desired a different kind of fleet

to that planned by the United States. By now her Admiralty had come to the conclusion that many cruisers of smaller size were more suitable to her needs. By a process of reasoning, which is difficult to follow, they estimated the minimum number as seventy. The United States, on the other hand, did not want a large number of small cruisers, but a fleet of 10,000-ton cruisers. Britain, with many bases, was thinking of lines of communication all over the globe; the United States wished to possess a fleet with a maximum striking force. Neither side would give way, and the result momentarily caused considerable friction between the two countries. This was not reduced in the next year when Britain and France, in response to an appeal from the Chairman of the Preparatory Commission, made a private agreement which would have settled the cruiser question along the lines Britain desired, while Britain accepted the French view about the limitation of reserves. There was indignant protest in the United States which was echoed in Italy and Germany, and, indeed, by almost unanimous public opinion in Britain. Ominous preparations were made in the United States to build a great cruiser fleet; yet it was clear that public opinion there preferred limitation and reduction, in spite of the deadlock.

The situation was restored by the new Labour Government in Britain. The visit of the Prime Minister to America in 1929 prepared the way for the London Naval Conference of 1930. Here at last compromises were arranged and a scheme drawn up for the limitation of naval armaments of all categories. By allowing the United States rather more tonnage in large cruisers, and Britain the same latitude in small cruisers the deadlock was solved. By a mysterious process the Kellogg Pact had reduced the minimum number of cruisers from seventy to fifty. Though the United States had by now joined Britain in advocating the abolition of submarines, this could not be obtained, but their size was limited. Elaborate rules were drawn up for the destruction and replacement of ships. Battle-



ships were kept at the old level, though Britain, supported by Japan, had now begun to advocate reducing them in size, but their life was extended so that no new ones would be built until 1936.

This great advance lost some of its value from the fact that France and Italy refused to sign large portions of the Treaty because France refused to accept Italy's claim to equality with her in naval armaments. The fleets, therefore, could not be wholly stabilized, and a safeguarding clause had to be introduced allowing Britain to build more should France and Italy do so. All efforts to produce an agreement between the two continental Powers failed, one result of which was to make Italy join forces with Germany and Russia in the advocacy of the most drastic forms of disarmament.

Nevertheless, the London Conference marked a great advance, and encouraged the Preparatory Commission to tackle once more the problems of land and air. The final session, held in the autumn of 1930, succeeded in producing a Draft Convention for submission to the Conference. On many points there was not complete agreement, and the whole was, of course, no more than a method, the actual figures being left to the Conference to decide. Germany and Russia protested at the meagreness of the result achieved after so much labour. Nevertheless, the draft Convention, in providing for a method of limitation of all forces for the whole world, marked the advance that had been made on this question.

As regards men, the conscription of all able-bodied men was still to be the basis of the armed forces of most Powers. There would thus be no reduction in numbers, though their total would be limited, no account being taken of reserves of trained men. But the length of service was to be limited. It had already been considerably reduced from pre-war standards, in the case of France by as much as two-thirds to one year. By this means it was claimed the defensive character of the armed forces was increased. This argument would have been more

convincing had not France and other countries increased the number of professional long-service men in the conscript armies. But the number of these was also to be limited as well as the officers and non-commissioned officers. By an ingenious scheme the basis of the limitation was made the average number of daily "effectives," i.e. of men under arms. "Formations on a military basis," capable of being employed for military purposes without measures of mobilization, were to be included. All reserves were to be left out, a point against which Germany strongly protested. Italy pressed for a distinction between colonial and home forces, but France insisted they should be regarded as one force, though they might be shown separately on the informatory tables which all Powers were to supply to the League. Still, in organization there was to be considerable limitation.

As to material, the naval was limited according to the plan already agreed upon at London, which was comprehensive, except that really small navies were to be exempt.<sup>1</sup> But no agreement could be obtained on the direct limitation of land material—guns, tanks, etc. France and Japan had always opposed this, and though the United States, Germany, and Russia were on the other side, Britain did not join them in the final vote for reasons of expediency. This was a great blot on the scheme against which Germany fiercely protested, but it was clear that the Conference itself would have to reopen the whole matter. Chemical warfare was prohibited, but not preparation for it, as had been done in the case of the enemy Powers. In air the numbers and horse-power of aeroplanes were to be limited, a formula at last being devised after long controversy on an exceedingly difficult problem which the constant advance in aeronautical science made it almost

<sup>1</sup> The new German "pocket battleship," which respected the treaty size of 10,000 tons but by technical ingenuity and lavish expenditure was heavily armed and engined, had, however, already complicated the problem.

impossible to solve satisfactorily. In addition there were to be some limitation and control of civil aviation, a point which Germany, the best situated of all the Powers in this respect, contested as warmly as she advocated other forms of limitation.

There was also to be the indirect limitation by means of budgetary control. France had always advocated this method and Britain, which long opposed it, became completely converted. The United States finally agreed that it might do for others if not for herself. Only Germany still refused assent. Though the experts had not yet produced a complete system by which the accounts of all Powers should be controlled, yet it was hoped they would do so before the Conference met. It was hoped that such a check, while it was illusory as a comparison of the expenditure of one country with another, would prevent growth of expenditure in costly experiments and would especially appeal to a world whose economic necessities were becoming graver every day.

Elaborate regulations were also made to ensure complete publicity of armaments which it was claimed would act as a check and ensure good faith. In addition, there was to be set up a Permanent Armaments Commission to supervise and control the whole scheme. This device had from the outset been passionately advocated by France and opposed by Britain and the United States. But eventually Britain accepted it and Lord Cecil justified it and in a sense attempted to transform it into an instrument for progressive reduction of armaments, as well as a precaution against bad faith. France and her allies insisted that the limitations on Germany must remain in spite of her continued protests.

The Draft Convention was only just completed in time. The financial and economic crisis of 1931 diverted public opinion to other matters, however much it increased the necessity for the reduction of expenditure on armaments. But the Assembly of 1931 was unanimous in desiring the Conference to meet forthwith and accepted the proposal of Italy

for an Armaments Truce, not a very practicable idea, but a gesture at least that the time had come to stop the increase of armaments.

The Disarmament Conference which opened at Geneva on February 2nd, 1932, was the most comprehensive Assembly which had ever been brought together. Sixty-four nations had been summoned and fifty-nine sent, as the President, Mr. Arthur Henderson, claimed in his opening address, "the chosen spokesmen of 1,700 millions of people." All the Great Powers and many other states were represented by many of their principal statesmen and a large number of experts. Public interest was high, and expected great results. Petitions were sent to Geneva from many organized bodies urging disarmament. The Japanese attack on Shanghai and the calling of a special Assembly to consider China's appeal, if it distracted attention and occupied the minds of the public and the Governments, yet emphasized the necessity which had called the Conference into existence.

The Conference began with a general debate, in which fifty speeches were made, and the various nations took up their positions. They then organized themselves in a General Commission which set up a number of commissions to discuss the detail of the proposals made. Political, Land, Naval, Air, Defence Expenditure Commissions, and subsequently special Committees on "Moral Disarmament" and Bacteriological and Chemical Warfare were appointed. The whole was under the supervision of a *Bureau* of fifteen, on which all the Great Powers were represented. Much opportunity was thus given to all Powers, great and small, to express their views, but during the latter part of the session there were many private meetings amongst the Great Powers, with whom the final word lay.

At the outset the Draft Convention was there as a basis, but new proposals were immediately made which went far beyond it in boldness and originality. This was one reason why there was so much confusion and uncertainty in the proceedings.

The Conference was largely concerned with the direct limitation of weapons, but except on naval affairs, the Draft Convention had worked out but little on this head, having, as we have seen, refused to accept direct limitation of land weapons.

France startled the Conference at the outset by proposing that certain weapons should be forbidden to states and placed under League control as the nucleus of an international army, to which also the states should contribute quotas of armed force. Civil aviation as a necessary consequence was to be internationalized, or at least, "Europeanized." This was harking back to the French plan of 1919, and by many France was considered to have brought it forward in order to avoid a direct negation of drastic disarmament which she was determined to refuse. However that might be, she got but lukewarm support even from her special allies.<sup>1</sup>

Britain and the United States on the other hand, submitted a number of specific proposals which included the abolition, or reduction in size, of submarines, big guns, tanks, and gas, and rather vaguer ones on reduction in effectives and budgetary control. Germany pressed for "equality," and Russia advocated complete abolition, or at least drastic reduction of men and weapons. Italian policy tended in the same direction. France thus stood alone, with the Anglo-Saxon Powers midway between her and the other three Great European Powers. The smaller Powers were prolific in proposals and schemes, but for the most part took up positions according to their relations with the Great.

The General Commission found it difficult sufficiently to clarify all these proposals in such a manner as to refer them to the technical commissions, though Sir John Simon was indefatigable in seeking a formula. It was not indeed until after

<sup>1</sup> The idea had, however, been long advocated in Britain by Lord Davies (formerly Mr. David Davies, M.P.) in his book *The Problem of the Twentieth Century*, 1930, which is by far the most comprehensive treatment of the subject, and in other works. He has founded a society to work for an international police force.

a recess, on April 22, that a guiding idea emerged, which was enshrined in a resolution moved by Britain and subsequently modified to suit the French thesis. This accepted the idea of "differentiation in weapons," viz. that some weapons should be forbidden altogether (or alternately handed over to the League). There was thus to be *qualitative* as distinct from *quantitative* limitation. Both processes had of course been applied to Germany. The problem then was to decide which weapons should be abolished, a subject on which the Powers had very varying opinions. A questionnaire was at last agreed upon by which the Naval, Land, and Air Commissions were asked to select "those weapons whose character is the most specifically offensive or those most efficacious against national defence, or most threatening to civilians."

These three standards gave the experts almost as difficult a task as the questionnaires submitted to Sub-Commission A, and they were treated in the same way. Each began to apply them in such a manner as sustained the thesis of their own country. Thus the British First Lord of the Admiralty laboured to prove that battleships and aircraft-carriers were defensive weapons. Fighting aeroplanes were defended in the same manner. One British expert said there could be no distinction between bombers and fighting planes since every plane could carry a bomb.<sup>1</sup> Submarines were held by the French and many smaller Powers to be defensive and not injurious to civilians. Similar refinements were indulged in on all sides, and the Commissions made little or no attempt to come to some arbitrary compromise, which was the only possible solution. Their studies, indeed, made the problems more difficult instead of clarifying them. Only the Chemical and Bacteriological Committee sent in a report advocating abolition.

<sup>1</sup> Already there can be discerned amongst air experts a distinction between those specially interested in "bombers" and those mainly concerned with fighting machines. Their controversies threaten to exert a similar confusing effect to those produced by the differences amongst their naval colleagues.

The truth was that such decisions could only be taken by those who were politically responsible, and this process the principal statesmen endeavoured to set in motion from the middle of June onwards in private meetings. They were in the middle of these when President Hoover submitted a special set of proposals which had only a partial relation to those under discussion. They were fairly drastic, being based on the principle "that the armaments of the world shall be reduced by nearly one-third." Land effectives, he suggested, should be reduced by one-third after the number necessary for internal order (such as the 100,000 of Germany) had been deducted from the total. Tanks, chemical warfare, and mobile large-calibre guns should be abolished. Battleships should be reduced by one-third (but not in size as Britain had advocated) the tonnage of aircraft-carriers and destroyers by one-fourth, submarines by one-third (no nation having more than 35,000 tons). Bombing aeroplanes should be abolished.

These proposals involved "sacrifices" by the United States, for she possesses large numbers of tanks, heavy guns, and bombers, and was prepared to reduce the size of her fleet. But as far as land armaments were concerned she had no such problems as France to face, and the naval proposals would have provided for her special claim of big ships and refused the British desire for smaller ships.

Nevertheless, it was obviously only by concrete and clear-cut proposals such as these that any progress could be made, and in all countries those who were the strongest advocates of reduction welcomed the President's intervention. But of the Great Power Governments only Italy at once accepted them. Germany and Russia wanted much more, while France and Britain wanted something different. Though there was much support in some sections of British opinion, the Government received them coolly. They insisted again on their desire to reduce the maximum size of both battleships and cruisers, and objected to the large submarine tonnage. France again

emphasized the necessity of increased international protection against aggression. There had to be another prolonged series of private discussion, before M. Beneš, the *rapporteur* of the General Commission, announced a general resolution which was to close the first stage of the Conference.

This resolution registered the determination of the Conference to achieve "substantial reduction" on the basis of Article VIII of the Covenant and "as a natural consequence" of the Kellogg Pact, and specially welcomed President Hoover's proposals, but also referred to the Draft Convention and the other proposals laid before the Conference. It then established such agreement as had already been made on various points as follows:

*Air.*

- (a) The abolition of air attack on civilian population.
- (b) All air bombardment to be abolished (subject to agreement as to how it was to be done effectively).
- (c) Limitation by number and restriction by characteristics of military aircraft.
- (d) Regulation of civil aircraft and some international control to prevent its misuse.

*Land.*

- (a) Heavy mobile artillery above a certain calibre (not yet fixed) to be abolished and the rest limited. Maximum calibres to be fixed for coastal and fortress guns.
- (b) Tanks to be limited in size.
- (c) Chemical, bacteriological, and incendiary warfare to be prohibited as the Committee had advocated.
- (d) A permanent Disarmament Commission to be set up as recommended in the Draft Convention.

It was then agreed that further problems should be examined by the *Bureau*, so that they might be more effectively discussed at a second session of the Conference as follows:



- (1) The strict limitation and real reduction of effectives, as President Hoover had proposed, with due regard to the special conditions of each country.
- (2) Budgetary limitation—the Committee being asked to complete its labours.
- (3) The regulation of the trade in private and state manufacture of arms to be considered by a special committee.
- (4) The reduction of naval armaments, the Great Naval Powers conferring together on the subject—the smaller Powers doing the same.
- (5) Special rules of international law to be made to ensure the prevention of bombing from the air and the use of chemical, bacteriological, and incendiary weapons.

Conscious that these proposals, which in many cases were still only aspirations, were not sufficient to justify the Governments in the eyes of public opinion, the resolution concluded by laying down that more comprehensive measures were not ruled out. Meanwhile, the Armaments Truce was to be renewed for four months.

Most people, as the *rapporteur* admitted, were but little satisfied with this result after nearly six months' labour. Germany and Russia, indeed, voted against the resolution, and the former declared that if her demand for "equality" was not conceded in the interval she would not return to conference. Italy was included amongst the eight Powers which abstained when the resolution was carried by forty-one votes to two on July 23, 1932.

Shortly afterwards Germany made to France a formal claim for "equality" of status. France evaded the issue by pointing out that the Council of the League could alone deal with the question, while at the same time she pointedly tried to associate Britain in the discussion. A British note to Germany seemed to emphasize the fact that Germany had no legal claim

to "equality," though equality of status, it was suggested, might be obtained in the course of the disarmament negotiations. Germany refused to withdraw from her position, and the *Bureau* which met to discuss the resolutions of the Conference found itself faced with a deadlock which prevented all progress. Meanwhile the Committees sitting at Geneva to work out the suggestions of the Disarmament Conference could make no progress. New schemes of security on the French model inevitably appeared and complicated the issue still further, while the internal situation of Germany did not tend to increase confidence in the other countries.

A long series of negotiations terminating in a Five-Power conference at Geneva were necessary before at last a formula was agreed upon which satisfied both Germany and France. This declaration associated the "equality of rights," which was to be granted to Germany, with the security which France demanded, while at the same time the four European Powers agreed on the proposal of Britain to affirm that they would not "resort to force" to solve their differences, present or future. In spite, therefore, of suggestions that the Conference should be adjourned for several years it was decided to continue preparations for reassembling it early in 1933.

The process of disarmament thus reached a new stage. It is obvious that there was confusion of ideas and objectives. The resolution was a mixture of a number of different principles applied without any consistent aim to the different problems of the Conference. In prohibiting chemical warfare and bombing, while leaving the machinery of control very shadowy, it went back to the discredited expedients of pre-war days. As was often pointed out in the Conference, such prohibitions are evaded in war-time by the method of reprisals. The application of "qualitative" principle from which at one time such great results were anticipated had gone no farther than the limitation of the size of guns and tanks. Nothing whatever had been done in naval questions. The thorny

problems of "effectives" and budgetary control had yet to be solved.

Nevertheless, it would be a mistake not to recognize the advance in the acceptance by practically the whole civilized world of such principles as are contained in the resolution of July 23, 1932. It has been agreed that armaments are to be reduced as well as limited, that air weapons are to be brought under control, that the size of modern land weapons, now growing larger year by year, is to be reduced to moderate dimensions, that both men and money are to be limited, that a permanent international system of control over the whole system of armaments is to be instituted. These are considerable achievements. It is a healthy sign that they have been received with impatience in most countries as only the first instalment of a process that needs to be completed. It is possible that the foundation has been laid of a new system whose far-reaching consequences can as yet be only faintly discerned.

For if a real control over armaments is established the problems described in previous chapters will tend to alter. The whole process of ensuring the peaceful settlement of disputes will be made easier and new advances in the machinery will be an inevitable result. The control of armed forces was the first necessary step in the creation of the national state. The control of national armed forces is an essential step in the creation of an international organization which can perform in a wider sphere some of the same functions as the state. The analogy must not be pressed too far, for a collection of states is a very different thing to a collection of individuals. But in both cases it is vital that there shall be a real check on the uncontrolled use of armed weapons. The process is obviously only begun in the agreements which have so far been reached.

## CHAPTER XIII

### MINORITIES

The truth is, there is a passion in the human heart stronger than the desire to be free from injustice and wrong, and that is the desire to inflict injustice and wrong upon others, and men resent more keenly an attempt to prevent them from oppressing other people, than they do the oppression from which they themselves may suffer.

PALMERSTON TO CLARENDON, December 2, 1859

THE powers and duties of the League with regard to the protection of national, linguistic, and religious minorities are derived, in the first place, from certain articles in the treaties of peace which supplement the Treaty of Versailles. These treaties fall into three groups: those with enemy states, Austria, Hungary, Bulgaria, and Turkey; those with states which existed before the war but received accessions of territory in consequence of it, viz. Greece, Yugoslavia, and Roumania; those with states which came into existence as a result of the war, viz. Poland and Czechoslovakia. By these treaties the states concerned pledged themselves to guarantee to national, religious, and linguistic minorities of their inhabitants enjoyment of certain carefully defined rights, and the League of Nations was charged with the duty of seeing that these pledges were faithfully executed.

This situation is, in some respects, a novel one, and it is important for its understanding to realize how it was brought about. All over Central and Eastern Europe before the World War states included groups of people of different nationality to that of the ruling majority, and these groups either desired to win independent statehood or to be united with those members of their nation who had achieved that status. Apart from any other cause of enmity between Austria-Hungary and Serbia, really satisfactory relations were rendered impossible

by the fact that the Hapsburg Empire included within its borders important Yugoslav populations which desired to be united with their fellows of free Serbia. On the other hand, the Serbs of the Kingdom tended to regard these populations as being wrongfully withheld from them, and drew the deduction that their liberation could only be achieved by the destruction of the Empire. This situation of conflict was typical of others. The Poles were divided between three alien empires and oppressed by two of them. Czechs were cut off from Slovaks, and both struggled against their German and Magyar rulers. The Roumanians of the Kingdom cast longing eyes on Transylvania with its Rouman-speaking population.

During the war, as has been seen, these questions became part of the Allied war aims. It was assumed that the well-known formula of Mill—"it is in general a necessary condition of free institutions that the boundaries of Governments should coincide in the main with those of nationalities"—would suffice. Of how little avail it really was the Peace Conference speedily discovered. Economic and strategic interests could not be ignored when the map of Europe was to be redrawn. If Poland were to have that ethnographical frontier and access to the sea promised her in President Wilson's Fourteen Points, numbers of intensely patriotic Germans must be included within her borders; if Czechoslovakia were to have a frontier that corresponded with any intelligible reality, millions of Germans, Magyars, and Ruthenes must be left in the new state; the transfer of Transylvania to Roumania involved also the transfer of Magyars, Saxons, and Szecklers; throughout Eastern Europe were scattered groups of the ubiquitous Jews, secular objects of persecution. Briefly, the solution of one set of minority problems might involve the creation of another set, with the dismal prospect of the commencement of a fresh cycle of conflict, revolt, and war. It is true that the number of people affected had been greatly reduced by the treaties. Before the war the minorities had been estimated as one

hundred millions; after the war their numbers have been calculated as thirty millions. Against this, however, has to be set the shock of the reversal and the memory of recent domination in the minds of the new minorities and of recent persecution in those of the new majorities. A terrible problem, therefore, still remained.

President Wilson had originally contemplated an attempt to surmount this difficulty by the inclusion in the Covenant of the League of Nations of the principle of equality of treatment of all racial or national minorities. The wording of the proposed clauses was vague, and their provisions, as was pointed out at the time by an American critic, obviously inadequate. In any case, as has been seen, they disappeared from later drafts of the Covenant, and the plan, probably more satisfactory, of dealing with the minority question by a series of special treaty provisions was adopted.

This was not a new expedient. From the Congress of Vienna onwards, alterations in the map of Europe had been accompanied by attempts on the part of the Great Powers to secure some measure of liberty for national and religious minorities. The Treaty of Berlin of 1878, for example, bound the new states then recognized to concede certain liberties to minorities. But these efforts by the Concert of Europe were almost completely inefficacious. A single example will illustrate this statement. The Convention of Paris of 1858, by which the Great Powers recognized the creation of an autonomous Roumanian principality, contained provisions designed to secure the Jewish minority in its rights to religious liberty, and to make it possible for Jews to acquire political and civil rights on the same basis as Christians. The liberal intentions of the Powers, however, were completely defeated by the Roumanian Government. The Congress of Berlin took up the question afresh in 1878, but with no greater success. Only collective pressure could have compelled a change of attitude, and while Roumania remained associated with the Powers of the Triple

Alliance, such concerted action was impossible. In brief, the system of international guarantee of minority rights and of control through the European Concert broke down for lack of a common will and of permanent machinery for its expression.

The statesmen assembled at Paris in 1919 had this advantage over their nineteenth-century predecessors; they had created in the League an instrument for international action which promised greater efficiency than the old European Concert, and it was inevitable that they should charge the new body with this function. Hence the particular form taken by what may conveniently be called the minority treaties.

These treaties fall into two parts. In one, certain rights are guaranteed to the minorities; in the other, means are provided for implementing this guarantee.

The guarantee articles, which constitute a kind of Bill of Rights for the minorities, may be grouped in four categories. First, those which confer rights common to all the inhabitants of a state, such rights being protection of life and liberty, and the free exercise of religion; second, those which deal with the acquisition of legal nationality; third, those which establish the rights of nationals belonging to racial, religious, or linguistic minorities, the rights in question including: (*a*) legal equality, that is, equality as regards political and civil rights, and, in particular, as regards admission to public employment; (*b*) the right to free use of the mother-tongue in private and commercial intercourse, in religious worship, in the Press and publications, in public meetings, and in the law courts; (*c*) the right to establish charitable, religious, social, or educational institutions; (*d*) the right to education in the mother-tongue in areas where the minority constitutes a considerable proportion of the population; fourth, those which deal with local conditions. Thus, the treaty with Poland contains special provisions concerning the Jews; those with Yugoslavia and Greece have clauses which safeguard the rights of Moslems; in the Czechoslovak treaty the autonomy of the Ruthenians south of the

Carpathians is secured, while the treaty with Roumania assures the educational and religious autonomy of the Saxons and Szecklers in Transylvania.

The Articles declaring these rights must, by the terms of the treaties, be regarded as fundamental laws by the states concerned, i.e. they cannot be abolished or abridged by subsequent legislation. This is an important safeguard, but past experience shows that, by itself, it would be insufficient. Accordingly, the treaties provide that these articles, in so far as they affect persons belonging to minorities, constitute international obligations and are placed under the guarantee of the League of Nations. Any member of the Council of the League has the right to bring to the attention of the Council an infraction or danger of infraction of these provisions, and the Council may thereupon take such action and give such instructions as it may deem effective. In the case of any difference of opinion as to questions of law or fact arising out of the treaties, such difference is held to be a dispute of an international character and may be referred to the Permanent Court of International Justice. The decision of the Court is to be final.

This system was only established in the teeth of considerable resistance from several of the states affected by it. At the plenary session of the Peace Conference of May 31, 1919, their representatives urged that they should only be asked to accept obligations which would fall equally on all states members of the League; otherwise, these obligations might appear to be derogatory to their sovereign rights, and they could not tolerate foreign interference in their domestic affairs. The reply of the Great Powers to this argument was twofold: the accessions of territory, gained by the protesting states, the very existence of some of them, were the result of a common effort in arms; those who had participated in that effort were entitled to dispose of the fruits of victory on their own terms. Moreover, this contention was justified by historic precedent; as



M. Clemenceau said, the Great Powers were acting according to the "established tradition." So far, it cannot be denied that the Powers had the better of the controversy. They failed, however, to meet the very damaging argument that they were imposing on other states obligations they were not prepared to accept themselves. Italy was about to acquire territories largely inhabited by German and Slav-speaking populations, yet no system of guarantee and control was to be applied to her. As an acute critic has said, "the inequality which results from the treaties is resented far more strongly than the interference with domestic affairs which their provisions involve."

The area of the League's control has been extended since the signature of the original minority treaties. The First Assembly passed a resolution to the effect that new entrants to the League should be requested to accept the obligations of those treaties. The details involved in securing such acceptance were left to the Council. As a result, there has been an extension of the League's protectorate over minorities, but the powers it possesses are not in all cases as direct as those established by the original treaties. Thus, while Albania in 1921 signed a declaration containing provisions similar to those in the minority treaties, which declaration was subsequently placed under the guarantee of the League, the Council was content, so far as Latvia and Esthonia were concerned, with less drastic arrangements. It accepted as sufficient the guarantees to minorities provided by the constitutions of those states, but retained the right to reopen the question if the provision so made were altered adversely to the minorities. In the meantime, if a question concerning minorities be raised by a member of the Council, the Governments agree to furnish the information necessary to its settlement. Should differences of opinion arise as to the interpretation of these agreements, either the Governments or the Council can apply to the Permanent Court for an Advisory Opinion. In other cases of new entrants, the Council appears to have contented itself with verifying the fact that

the rights of minorities are adequately protected by the constitution of the applicant state. In short, the Council has exercised reasonable discrimination in applying the Assembly's resolution; it has recognized that states differ in degrees of political civilization and has demanded fuller guarantees in some cases than in others.

The scope of the League's jurisdiction in the matter of minorities has also been extended by its solution of disputes referred to it. When the dispute between Finland and Sweden over the Aaland Islands was decided, the cultural and political rights of the islanders were placed under the League's guarantee. In the same way, the settlement of the Upper Silesian difficulty made the League the guarantor of minority rights in both the Polish and German areas of the territory.

The origin and scope of the League's duties concerning minorities have now been described; it remains to consider the methods by which those duties are executed.

In the first place, it must be noted that the Council is the body charged with the task of protecting minority rights. Its members alone can call its attention to invasions, actual or probable, of those rights. This imposes a task of peculiar difficulty on the Council; it must, on the one hand, see that the treaties are fairly implemented; on the other, it must safeguard itself against being used as the instrument for illegitimate agitations or interferences with the rights of sovereign states. To avoid these dangers, a procedure for treating minority questions was worked out in 1920 which, with certain modifications, has governed the Council's activities in this field.

The Council's main source of information concerning minorities is necessarily that of petitions from persons or bodies which consider that minority rights have been invaded. The method in which these should be treated has been a subject of constant controversy, but the Council has pursued the general policy of refusing to allow petitioners to institute

anything in the nature of a suit against the Government whose acts are the subject of complaint; a petition is information, no more. To be acceptable, a petition must not be anonymous; it must not be couched in violent language; its requests must not be in conflict with the treaties, e.g. a request for the severance of political relations between the minority and the state of which it forms a part would be *ultra vires*; it must deal with matters which have not recently been the subject of a petition dealt with by the ordinary procedure. By resolution of the Council of June 13, 1929, the Secretary-General, should he decide that a petition is not acceptable, must so inform the petitioners.<sup>1</sup>

All petitions go, in the first instance, to the Secretary-General, who decides, as has been seen, on their acceptability; if accepted, a petition is communicated to the Government concerned for its observations, and then, along with them, is circulated to members of the Council. Originally, the documents were communicated at the same time to all members of the League, but exception to this practice was taken by Poland and Czechoslovakia. As a result, petitions are now only circulated to Council members, though the right of the Council to give wider publicity to them, and that of all members of the League to receive them on demand, have been safeguarded by resolutions of the Council and the Assembly.

The Council, in deciding its procedure, had to consider how petitions were to be dealt with when received. The treaties merely declared it to be the friendly right of any Council member to call attention to the infraction of a treaty. But to leave the initiative to individual members would have had unfortunate consequences. The Council would have been

<sup>1</sup> It is convenient to note at this point that the Council does not depend solely on petitions for information. There is a special Minorities Section of the Secretariat which does valuable work in this connection. It maintains a Press information service and research department, while its officials from time to time visit countries affected by the treaties.

in the position of the old Concert, and the inefficiency of that body has been sufficiently demonstrated. Members might—almost certainly would—have placed the political convenience of their Governments before the strict execution of their duties and the minorities would have been left without protection. On the other hand, if a member took the initiative in championing a minority's grievance, equally unfortunate results might follow. "There was inevitably some danger," as an experienced Council member has said, "lest an individual intervention by a particular Power . . . should create disturbance, produce ill will, even embitter the relations between the state which felt it its duty to bring the matter to the notice of the Council and the state of whose action it complained."<sup>1</sup> For these reasons it was determined to refer all petitions to a committee composed of the President and two members appointed by him. The function of this committee is to consider the petition in the light of all available information "with the sole object of determining whether one or more members of the Council should draw the attention of the Council to an infraction or danger of an infraction of the clauses of the treaties for the protection of minorities."<sup>2</sup> The committee must decide whether it will place the question it has considered on the Council's agenda, thus bringing it formally before the Council for action.

The practice of treating minority questions by special committee has been consistently followed, but it has been found necessary to modify the original procedure in certain respects. Thus, in 1925, on the proposition of the Brazilian representative, it was laid down that the President of the Council should not act as convener of a minority committee to deal with a question in which his own nationality was directly or indirectly concerned. The same rule was applied to the other members of the committee. Both minority and majority thus obtained

<sup>1</sup> Sir Austen Chamberlain at the fifty-fourth session of the Council.

<sup>2</sup> Council Resolution of September 5, 1923.

greater guarantees of the impartial consideration of the point at issue. Again in 1929, as the result of debates in the Council at Madrid, initiated by M. Dandurand (Canada) and Herr Stresemann (Germany), further changes in procedure were introduced. The President might, it was agreed, in exceptional cases, invite four members of the Council instead of two to constitute a Minority Committee along with him; Committees were asked to consider the possibility of holding meetings between sessions of the Council—a suggestion which has since been acted upon; it was decided that Committees, when they have finished the examination of a question, without asking that it be placed on the Council's agenda, shall communicate the result of the examination to the other members of the Council. These changes were intended to secure more thorough and speedy consideration of petitions, while members of the Council would be fully informed as to their treatment. Other changes were designed to secure greater publicity for the Council's work. It was suggested that Committees should, with the consent of the Governments concerned, publish the results of their examination of the questions submitted to them. At the same time the Secretary-General was directed to publish an annual report showing the number of petitions received, the number declared non-receivable, the number referred to Committees, the number of such Committees and of the meetings held by them, the number of petitions whose examination by committee had been concluded. This report was intended to remove the ground of complaints that petitioners were ignorant of what happened to their petitions and were thus led to suppose that their grievances were overlooked.

It would be impossible within the available space to attempt to describe even in outline the activities of the Council and its Committees concerning minorities since 1920. More than three hundred and fifty petitions have been received (excluding those from the special area of Upper Silesia), about half of

which were declared unacceptable. By far the greater part of the work on the petitions received has been done by the Committees. The Council has found it necessary to undertake a settlement in some fifteen cases only. This fact requires explanation, since failure to grasp the reasons for it has led to underrating the value and scope of the League's work for minorities. The Committees were originally intended to be organs of inquiry, but they have become more and more the means whereby difficulties are settled. A small body, acting informally and in private, can communicate with an interested Government much more readily than the Council; it can make friendly representations or suggestions for a settlement, and since these are based on intimate knowledge, are made privately, and come from an impartial source, they are more likely to be received in a conciliatory spirit than would authoritative commands issued by the Council. A matter brought before that body immediately receives world-wide publicity; the Government concerned is likely to feel itself put on the defensive, and its probable reaction will be an obstinate persistence in the course complained of. The Assembly recognized this when it resolved, in 1922, that "the League can best promote good relations between the various signatory Governments and persons belonging to racial, religious, or linguistic minorities placed under their sovereignty by benevolent and informal communications with these Governments." The method of dealing with minority questions through the Committees has grown in response to a real need; its very informality has had the advantage of elasticity, since a committee, being hampered by no rigid rules of action, can adapt its proposals to the needs of each particular case.

The method, it is only candid to note, has inevitable defects. To proceed by conciliation and agreement may involve the acceptance of solutions not strictly in correspondence with rigid law or even equity; the privacy in which the Committees act has caused their work to be ignored by the world, and this

has led to complaints by minorities and their supporters as to the failure of the League to maintain its guarantees.

While the number of questions on which the Council itself has acted has been small, the questions themselves have often been of great importance. An account of them here is impossible, but it may be noted that, apart from numerous minor matters arising in Upper Silesia, they involved Greek minorities in Bulgaria and Constantinople; Albanian, Bulgarian, and Turkish minorities in Greece; Jewish minorities in Hungary, Hungarian minorities in Roumania; Polish, Russian, and Ukrainian minorities in Lithuania; German and Lithuanian minorities in Poland, and the Ruthenian minority in Czechoslovakia. In dealing with these very complicated questions the Council, in general, has pursued the same policy of conciliation and agreement as its Committees; on two occasions, however, it has been obliged to apply to the Permanent Court of International Justice for Advisory Opinions on points of law. In certain cases where the action of one Government was challenged by another it has procured a settlement by direct negotiation between the parties, assisted by a Council member. In one case, that of Albanian Moslems in Greece, it appointed three persons to supervise the settlement and report to it direct.

The treaties make no reference to the League's Assembly, and that body has no direct and formal concern with minority questions. Nevertheless, it has repeatedly discussed them. The First Assembly, as we have seen, secured the extension of the League's field of action. The rights of the minorities were constantly championed by Hungary through the mouth of the venerable Count Apponyi, and after Germany's entry into the League her speakers always referred to the problem in the plenary sessions. It was not until 1930, however, that a debate took place in the Sixth Commission, when some notable speeches were made in a rather tense atmosphere. It was significant that in 1931 neither Germany nor Hungary

were prepared to take up the challenge in the Commission. In 1932, however, another outspoken debate took place. The value of the Assembly's activities has been in keeping the minorities question before public attention, thus reminding Governments that it is one of international concern. The Assembly has also provided a useful safety-valve in so far as it has given the minorities opportunities to make their grievances known. At the same time, the Assembly's discussions have had a direct influence on the Council's policy; the changes of procedure of 1929 were inspired, at least in part, by discussions in the Assembly. In this, as in other matters, the Assembly can render great service to international peace and justice by mobilizing world opinion for their defence.

In estimating the value of the League's work in this sphere certain facts must be borne in mind. First, that its powers are derived from treaties that it has no means of changing. Thus, both its means and range of action are definitely circumscribed, a fact which its critics often forget. Second, and more important still, is the state of popular feeling in the world at large during the years the League has been in existence. Nationalism has been the most potent political force operating in and out of Europe. The national consciousness of peoples has everywhere been heightened, while the policies of Governments and national groups alike have been directed towards affirming or defending national claims. This condition of things has had repercussions in the countries affected by the minority treaties. The Governments representing majorities have not only resented their exceptional legal position, but have been stubborn in their dealings with the League and the Minorities; the latter, resentful, for the most part, of the political changes wrought by the war, have too often been intransigent and unreasonable. The economic stress from which Europe as a whole has suffered in the post-war years has added another complicating factor. Peoples have been tempted to seek remedies for economic ills in changes of political



status, and to suppose that the restoration of pre-war frontiers would charm away their miseries.

For most of these difficulties it is clear that the League can provide no immediate remedy. It is possible that here and there in Europe frontiers might be redrawn with advantage, and it is also possible that by means of Article XIX of the Covenant such adjustments could be negotiated. It is certain, however, that the task would be attended with enormous difficulties, and it is equally certain that frontier changes alone could not solve the minorities problem. Its solution clearly depends upon a change in the mental attitude of minorities and majorities alike, and of such a change there are no present indications.

When all necessary allowances have been made the fact must be faced that the League has failed to satisfy, not merely the minorities, but friendly and experienced observers, by its handling of the problem. An impression has undoubtedly been given that the Council has lacked vigour and decision, with the result that the minorities have not received their due. "With our present procedure," said Count Apponyi in the Fifth Assembly, "there is no prospect of fulfilling our aim . . . to do justice where justice is due, and to give minorities with a grievance the feeling that they will obtain justice. A man has obtained justice even though he loses his case; he does not obtain justice if his case is ignored." Since that date procedure has been altered, certainly for the better, but it may be doubted whether the critic would admit that his point has been met. Moreover, the secrecy of the Council has caused lack of confidence. "Justice should be blind but not hidden," said a Canadian critic in 1931. Finally, in Count Apponyi's speech already quoted he laid his finger on what is the radical weakness of the League's position:

The Council is first and foremost a political body consisting of statesmen delegated by their respective Governments and having definite instructions. They are fully conscious of their international duties,

but owing to the nature of things and to the position they hold they are mainly preoccupied with the political interests of the states they represent. A case must thus be a flagrant one . . . before a member of the Council will care to create a delicate situation between his own country and another in order to do justice to a minority to which he is bound by no particular ties.

In other words, the Council suffers from certain of the defects of the old Concert. These defects cannot be cured by ingenious manipulations of procedure. They are inherent in Europe's political structure, and they will disappear only when the League by its success has wrought that change in thought and feeling which is the first condition of solid progress.



PART IV

THE GROWTH OF INTERNATIONAL  
CO-OPERATION



## CHAPTER XIV

### ECONOMIC AND FINANCIAL RECONSTRUCTION AND EXPERIMENT

In a word, the League of Nations means that the nations enter upon a new way of working together. If it is but regarded in that simplest light, the necessity for organised economic forms of mutual service will become no less self-evident than the need for new political, diplomatic, and judicial institutions.

J. L. GARVIN, *The Economic Foundations of  
Peace*, 1919

THE pages of this book have hitherto been devoted to describing the achievements of the League in organizing world peace and the machinery by which those achievements have been effected. The League's primary object is to substitute "the reign of law" for that of disorderly violence in international relations. But peace is as much a condition of good as a good in itself, and men seek it in order that they may be released from the burdens of war, and of preparation for war, to turn their energies elsewhere. A purely negative conception of peace, therefore, is not enough, and the Covenant recognizes this fact. It places the promotion of international co-operation alongside the achievement of peace and security as the League's objectives.

Already before the war great and durable results had been attained in many fields of joint international action. Such organizations as the Universal Postal Union and the Telegraphic Union, for example, had long passed out of the experimental stage. These and similar bodies had been created in response to urgent needs; they represented practical attempts to solve practical problems. But it was obvious in 1919 that the process must be carried further by more systematic methods. Hence the statement in the Covenant already mentioned, and hence, also, an ever-widening range of activities undertaken

by the League during its existence. It is the purpose of the chapters that follow to describe certain of these activities, not only because they are important in themselves, but because they complete that picture of the League as a working institution which it is the aim of this book to present.

Looking back to the beginnings of the League from the standpoint of to-day, with a knowledge of all that the intervening years have meant for Europe and the world, it comes with something of a shock to realize that the Covenant is almost silent as to economic activities. Articles XXII and XXIII contain references to the "open door" in Mandated Territories, to conditions of labour, and to transit and communications—matters which are discussed in subsequent chapters—but apart from these there is only a provision (in Article XXIII (*e*)) securing "equitable treatment for the commerce of all members of the League." There is no need here to discuss the history of this phrase; what concerns us is to note that the authors of the Covenant had no vision of the fact that economic problems were largely to dominate the policies of Governments in the post-war period or that the League itself was to be deeply involved in attempts at their solution. It would be unfair to ridicule or blame them for this; they were facing unprecedented conditions and were grappling with the enormous practical task of concluding a peace. If they were blind they suffered along with most of their contemporaries.<sup>1</sup> In any event, we are concerned here with the part the League has been compelled to play in coping with economic upheavals unparalleled in dimensions and intensity.

It will be useful to remind the reader of the course of economic development in the world during the post-war years. For brevity's sake, the period may be divided into two. The decade after 1919 was a time of painful recovery, but recovery

<sup>1</sup> But not all, as the quotation at the head of this chapter shows.

unexpectedly rapid if the prodigious material destruction wrought by the war be borne in mind. How complete that recovery was we are apt to overlook because of local events and conditions. Within a few years of the signature of peace the pre-war financial machinery of the world had been practically restored. "By 1925," writes an eminent authority, "the world's production and consumption per head, that is, the average standard of living, were higher than in 1913. A year or two later this was true even of belligerent Europe, though not of every country of it." By 1929, he concludes, "the world as a whole was well above all earlier standards and seemed to be advancing at an unprecedented pace to levels of prosperity never before thought possible."<sup>1</sup>

Then came the great depression, a depression which seems still to be widening and deepening as these pages are being written. In all countries it has had the same consequences: falling prices, slackening production, widespread unemployment, and financial embarrassment, the latter accompanied by the abandonment of the Gold Standard in most states, and in some by failure to meet liabilities. "In intensity and range," says the authority already quoted, it has been "beyond all previous experience, with a duration and with subversive consequences which none can yet with confidence forecast." Its causes cannot be examined here; experts, indeed, are far from agreed about them. Over-production, under-consumption, tariffs, reparations, war debts, maldistribution of gold supplies—all of these have been suggested. Our task is rather to estimate the League's contribution to recovery, for this will at least enable us to see what its rôle might be in a new period of reconstruction.

We may classify the League's reconstructive efforts into two divisions: first, attempts to guide world opinion towards the adoption of sound economic and financial policies, and, second, practical achievements in reconstruction, mainly financial,

<sup>1</sup> Sir Arthur Salter, *Recovery*, p. 4.



carried out under its auspices in various countries. It will be convenient to begin our account with the first of these topics.

The state of Europe, especially as regards finance, was so serious in the immediate post-war period that the League Council, at its third session in February 1920, decided to convene a conference on "the world-wide financial and exchange crisis." Thirty-nine countries (including Germany and the United States) were represented in this assembly, which met at Brussels in the following September. It was an expert body, for its members were not spokesmen of official policy; its terms of reference confined it to discussing remedies for the financial crisis and even with regard to those it was expressly debarred from considering reparations. Its report, when presented, gave a sufficiently gloomy picture of financial affairs. Three out of every four of the countries represented anticipated a budget deficit in the current year; currency inflation was rife, exchanges unstable, and production hampered by high taxation and innumerable restrictions.

The proposals of the Conference for coping with these evils have been called "a compendium of financial orthodoxy," but this does them less than justice. True, the recommendations to reduce expenditure, balance budgets, stop inflation, and return to the Gold Standard were orthodox enough, as was the urgent demand that "commerce should as soon as possible be freed from control and impediments to international trade removed." But the Conference by no means confined itself to these truisms. It reported that "some 20 per cent. of the national expenditure is still being devoted to the maintenance of armaments and the preparations for war," and it affirmed "with the utmost emphasis that the world cannot afford this expenditure." The Council was urged in the strongest terms to attack the problem of disarmament immediately. On the vitally important question of international credits it propounded a scheme (usually called the "ter Meulen" scheme after its author, a Dutch expert) which would enable

"impoverished nations, which under present circumstances are unable to obtain accommodation on reasonable terms in the open market, to command the confidence necessary to attract funds for the financing of their essential imports." The details of this scheme have now merely an historical interest, and it suffices to say that it would have involved the setting-up by the League of an International Commission to organize and control the distribution of credits to the nations in question. The experts, therefore—and their recommendations were unanimously adopted—went far beyond a programme of negative, if orthodox, proposals.

Just what influence the Brussels Conference had on opinion and policy it is difficult to say. Certainly the general trend in the years immediately following was towards the balancing of budgets, the abandonment of inflation, and the return to the Gold Standard. So far the course of events in general followed the lines laid down at Brussels. But there was no comprehensive movement towards clearing away obstructions to international trade; Governments did not disarm, the ter Meulen scheme was not adopted. Not for the last time, the spectacle was seen of public opinion, as represented by the world's Governments, ignoring or rejecting expert advice in favour of purely self-regarding policies.

In connection with the Brussels meetings the League had set up a Provisional Advisory Economic and Financial Committee. One outcome of the Conference was the incorporation of this body into the permanent machinery of the League. The Economic and Financial Organization is divided into two committees: the Economic and the Financial. The first is composed principally of officials of different Governments specially expert in economic questions. They are appointed, it should be noted, in their individual capacities. The membership of the second is drawn mainly from the ranks of finance. It will be necessary to refer frequently to the work of these Committees in what follows, but this is an appropriate point

at which to mention the great work of research and information organized under their auspices. They have carried out inquiries into special problems, e.g. that of Double Taxation, and have maintained series of publications like the annual reports on Public Finance and International Trade which are indispensable to the student of economic questions. In this connection, also, reference may be made to an important achievement of the Economic Committee. International action on economic questions must obviously be based on accurate information of a statistical kind. But each Government has its methods of collecting and publishing statistics, so that the comparison of data for a number of countries is often difficult and sometimes impossible. This is a real barrier to effective co-operation. The Committee was able to bring about in 1928 the meeting of an International Conference on Economic Statistics which adopted a convention providing for uniform methods of presentation. This has been ratified by a considerable number of Governments, and its scope may be extended in the near future.

The Brussels Conference, as we have seen, had recommended action for removing obstructions to trade. It was doubtless with this recommendation in mind that the Council, in September 1921, directed the Economic Committee to consider the practical application of Article XXIII (e) of the Covenant which binds members "to secure and maintain equitable treatment for the commerce of all members of the League." The Committee reported in favour of the summoning of an International Customs Conference of experts to deal practically with the question. Such a conference met in October 1923, and produced a Convention for the Simplification of Customs Formalities. This agreement was both lengthy and highly technical in character, and it suffices to say that Governments accepting its provisions undertook that their commercial relations should not be hindered "by excessive, unnecessary, or arbitrary Customs or other similar formalities," and they

agreed to revise their legislation in this sense. The Convention was thus limited in scope; it did not attack the central question of tariffs, but it did represent a real achievement in the sphere of international economic action. It has been ratified by more than thirty states, including the principal industrial countries of the Old World.

As time went on an increasing body of opinion developed in favour of comprehensive international action in the economic sphere. The work of the League (presently to be described) in various directions was bearing fruit; the adoption of the Dawes Plan had procured at least a temporary settlement of the Reparations issue, so that by 1925 the time seemed ripe to take up and carry farther the work begun at Brussels. In that year the President of the Council (M. Painlevé), when opening the Assembly, urged it "to begin without delay the arduous task of regulating international economic life." As a result of this initiative and of supporting action by the French delegates the Assembly decided to convene a World Economic Conference and appointed a Preparatory Committee for the necessary work of organization.

The Conference met at Geneva in May 1927. It consisted of 194 delegates, representing fifty Governments, including those of the United States and Russia. The delegates, though nominated for the most part by Governments, came in their personal capacities, and were assisted by a large body of experts. The ground had been prepared for them with extraordinary care. The Preparatory Committee had caused to be produced a great mass of documents and reports which surveyed world problems as a whole, described the economic situation of states, and set out the conditions in the main industries as they were at that date. Because of this preparation and, no doubt, to some extent because of the delegates' unofficial status, the Conference worked with great efficiency, though its deliberations were not helped at certain stages by the obvious desire of the Russian delegates to use what was, to

them, a heaven-sent opportunity for the denunciation of capitalism and capitalist Governments. In spite of this, the Conference achieved a remarkable unity of opinion.

Its recommendations fell under three heads—Industry, Agriculture, and Commerce. Under the first the main topic discussed was that of international industrial agreements leading to the formation of *cartels* and trusts. The Conference recognized that these, while capable of effecting the better organization of production and thus reducing costs, had their dangerous aspects; agreements, it was held, “should not lead to an artificial rise in prices . . . and they should give due consideration to the interests of the workers.” Further, they should not “restrict the supply to any country of raw materials or basic products.” The Conference accordingly recommended the League to follow the development and working of these agreements and to publish the results of its inquiries from time to time. Such publicity would itself be a safeguard against abuses.

The recommendations on Agriculture covered a number of topics too numerous to be summarized here. They suggested the examination by the League of the possibilities of international collaboration concerning agricultural credit, and laid great emphasis on the need for the reduction of protection (where maintained) “to the lowest possible point indispensable to production.” The system of export prohibitions and duties ought definitely to be abandoned.

These last proposals struck a note which was repeated with even greater emphasis in the resolutions on Commerce. It is not too much, indeed, to say that the question of tariffs largely dominated the Conference, a reflection of the increase in numbers and steepness of tariffs themselves during the post-war years. “The time has come,” said the recommendation on this head, “to put a stop to the growth of Customs tariffs, and to reverse the direction of the movement.” This was to be done in part by the individual action of states, by either

reducing their own tariffs or concluding suitable commercial treaties, and in part by collective action having the removing or lowering of excessive tariffs in view.

The unanimity of support given to these recommendations was imposing. It remains to discuss the measures adopted to put them into force and the degree of success obtained.

The first step taken was to establish a new body, the Economic Consultative Committee, to follow up the work of the Conference. It was able to report in 1929 that the Conference had "substantially checked the upward movement of tariffs." Already in 1927 a recommendation of the Conference had been put into effect by the negotiation of a Convention for the Abolition of Import and Export Prohibitions and Restrictions. As has been shown above, the Convention on Economic Statistics was adopted in the following year, thus putting into force another recommendation of the Conference. The movement was slow, but it seemed to be definitely in a forward direction.

This progress was more apparent than real. In May 1929 the Consultative Committee was obliged to admit that there was little evidence of a general movement towards tariff reductions; indeed, by that date the signs were already pointing in the other direction. In that very month discussions on a new tariff began in the United States, and it was evident that their outcome would be still higher duties. This movement was paralleled in other countries; a new tariff war was visibly approaching.

Meanwhile, the Convention of 1927 had failed in its purpose. It was to come into force in September 1929 if ratified by eighteen states, but by that date the necessary number had not been reached. A conference called in December to deal with this situation failed to secure the necessary agreement, and another conference, held about the same time to prepare a convention giving greater liberty to foreign resident traders, was also compelled to register a failure.

When the Tenth Assembly met, therefore, in 1929, it was faced by a sufficiently gloomy situation. The impetus given by the World Conference had obviously spent itself. On the initiative of a British representative, Mr. William Graham, it was decided to attempt to bring about a "tariff truce," i.e. a general agreement not to increase existing tariffs. In its original form this project failed to materialize, but was replaced by a convention of March 1930, which prolonged existing commercial agreements till April 1931. The Assembly of 1930 carried the matter no farther; indeed, attention was diverted by M. Briand's proposals for European Union, the fate of which has already been described.<sup>1</sup> Further attempts by means of conferences in November 1930 and March 1931 to deal with the problem failed. The defeat of the central proposals of 1927 was complete.

This defeat extended to comparatively minor proposals of the World Conference. Arising out of its recommendations conventions were framed in 1930 and 1931 for the Unification of Laws on Bills of Exchange, Promissory Notes, and Cheques, and for the creation of an International Agricultural Mortgage Credit Company; none of these, in the absence of sufficient ratifications, has yet come into force.

To discuss whether, had economic conditions improved after 1928 instead of worsening catastrophically, the programme of the World Conference might have been put into practical execution, would be waste of time. The world-wide depression, reinforcing previously existing tendencies, led to the adoption by the states of what a League expert has called "policies of national protection and self-sufficiency." That these policies have neither ended nor mended the world's afflictions is but too clear; whether a fresh attempt to grapple with them by international means will be more successful will shortly be decided. The Lausanne Conference, which met in 1932 to deal with Reparations, invited the Council of the League to

<sup>1</sup> See p. 75.

summon another World Economic Conference and preparations for its meeting are now being made. It is significant that, along with several topics discussed in 1927, it is to deal with such financial questions as monetary and credit policy and the level of prices.

It is time to turn to our second topic—the practical reconstruction work carried out under League auspices and control in various countries. This was completed, for the most part, before the great depression broke upon the world, and can be divided into two main activities: the resettlement of refugee populations, and financial assistance to particular states.

The refugee problem, as it engaged the attention of the League, was created by the war and the Russian Revolution. The armies engaged in Eastern Europe swept whole populations from their homes; the second led to the wholesale flight of persons who would not or could not reconcile themselves to the new régime. The number of people thus dispersed has been calculated at one and a half millions. The social problem thus created was acute; the refugees were, for the most part, without means of livelihood; they were compelled to live under conditions dangerous to themselves and their neighbours; they were a crushing burden on communities themselves hard-stricken by war.

The first attempts to help these unhappy people took the form of relief; somehow they had to be kept alive. Such philanthropic organizations as the Red Cross and the Save the Children Fund rendered essential aid, while some Governments, notably those of Czechoslovakia and Yugoslavia, spent lavishly from their own funds. But the mere distribution of charity was obviously not enough; what was needed was to place as many of the refugees as possible in circumstances where they could be self-supporting. For this purpose the League had to be called in.

The Council, in June 1921, decided to appoint a High



Commissioner to deal with the problem. The choice fell upon Dr. Nansen, the great Norwegian explorer and scientist, who was to devote most of the rest of his life to the alleviation of human suffering and the establishment of world peace. Working with very modest funds, supplied in part by the League, he undertook the task of assisting the refugees to assist themselves. The first task was to make a census of those needing help, and with the aid of the International Labour Organization this was done. The next was to negotiate with Governments for permission for refugees to settle and work in their respective countries; this was a difficult business, but it was successfully accomplished. By the time it was complete, refugees had been distributed to some forty-four countries in the Old World and the New. One problem of this resettlement Dr. Nansen solved with particular skill. The refugees were without passports or papers of identity, and to obtain them from the Russian Government was impossible. Dr. Nansen devised, and persuaded a great number of Governments to recognize, certificates which enabled the refugees to travel to their new homes and effectually replaced the missing documents; they became known as the "Nansen stamps."

Before Dr. Nansen's task was completed fresh refugee problems arose. The failure of the Greek campaign in Asia Minor in 1922 led to a mass migration of Greeks to Europe. Their numbers were swollen later by an exchange of populations between Greece and Turkey. In all, about a million persons had somehow to be settled. On the appeal of the Greek Government the League took up the work and Dr. Nansen's services were once more requisitioned. He negotiated the exchange of populations above mentioned, and was the first to suggest the provision by the League of financial aid to Greece—a matter to which we shall recur. Thanks to the funds thus obtained, and under the direction of a Refugee Settlement Commission (partly appointed by the League and reporting to it), the work was begun. Large numbers of the fugitives

were settled on land put at the disposal of the Commission by the Greek Government, and when it was apparent that the area thus available would be inadequate, drainage and reclamation work were undertaken. Model farms for training purposes were established, stock supplied, and co-operative societies set up for the benefit of the new cultivators. In addition, houses were built, along with schools and churches, wells were sunk, and the hygienic condition of the people ameliorated—a task in which the League's Health Organization assisted.

Somewhat similar work, though on a much smaller scale, was done in Bulgaria. The Government applied to the League in 1926, and received not only financial assistance, but the invaluable guidance of a League Commissioner.

To exaggerate the value of this work would be impossible. Literally millions of people have been rescued from death by starvation and placed in a position to maintain themselves and enrich the world by their labour.

The most important piece of financial reconstruction undertaken by the League concerned Austria, and since it provided the model for similar work in other countries, it must be described in some detail here.

The collapse of the Hapsburg Empire and its division into a number of independent states created political and economic problems of a most serious kind. The situation of the new Austria was peculiarly difficult. It inherited from the old Empire a capital, Vienna, which normally had a population of two million souls, and was a great centre of economic as well as administrative activity. This vast city was now enclosed in a small state with a population of some seven millions, mostly—outside Vienna—agricultural. To grapple with the social problem thus created would have taxed all the new republic's resources had other circumstances been favourable, but this was far from being the case. The war and the collapse of the Empire had undermined the economic system by which Vienna lived, and her neighbours—the new Succession

States—obsessed by memories of past oppressions and fearful of new dangers, were suspicious of, if not openly hostile to, Austria. These fears, combined with those of France, had led to the prohibition of union with Germany, which might otherwise have provided a way of escape. In addition, indefinite liabilities imposed by the Reparations clauses of the Peace Treaty hung over the Government.

This situation produced its inevitable consequences in increasing poverty, unemployment, and political discontent. The Government, perpetually in need of funds, inflated the currency, thus widening and deepening the pool of misery. From 1919 onwards, other Governments, actuated by a variety of motives, attempted to provide a remedy. Great Britain, France, Italy, and others all granted loans; philanthropic bodies and individuals gave relief. By 1921 it was already clear that these methods were merely prolonging Austria's agony, and the European Allied Powers called upon the League to plan a general reconstruction.

The new Financial Committee promptly took the matter in hand, and in a few weeks submitted a scheme to the Council. Its essential provisions were: the release by Austria's creditors of their liens on her resources to enable adequate loans to be raised; internal reforms in administration and currency policy; a system of control to ensure the realization of such reforms, and the efficient use of the new resources. The first item in this programme was the main obstacle to its realization; it was not till July 1922 that the last creditor country had fallen into line. By then Austria's position had become desperate; the crown had fallen to one-fifteen-thousandth of its normal value, and it was now impossible to raise a loan. A fresh appeal was made to the Supreme Council of the Allies for assistance, but this body refused all hope of fresh financial aid and once more referred the matter to the League. Fifteen precious months had thus been wasted, and the League was now faced by a situation worsened in nearly every respect. Its machinery,

however, was set to work; a special committee of the Council was appointed and, with the assistance of both the Financial and Economic Committees, succeeded both in devising a plan and securing the assent to it of the interested Powers.

The plan was in its essential features much the same as that previously put forward by the Financial Committee. Austria undertook to carry out reforms in its budget involving large retrenchments and to put its currency once more on a gold basis. To supervise the execution of these pledges a League Commissioner-General was appointed (Dr. Zimmerman, ex-burgomaster of Rotterdam). In return, a loan, guaranteed by the Governments of ten countries, was to be floated.

The measure of success achieved by these methods was great. Austria was restored to solvency and its monetary system put on a sound basis. In 1926 the system of control was brought to an end. Unfortunately, the League's intervention, fruitful as it was, could not alter fundamental economic and political facts. Austria's position must always be precarious while these are what they are, and she was among the first victims of the depression. In July 1932 the Council was compelled to arrange for a fresh guaranteed loan and to reimpose a measure of control. Austria's future remains dubious, but this fact in no way detracts from the League's remarkable achievement in the years 1922-26.

That success led, in 1923, to an application by Hungary for League help. The financial position of that country never reached the same degree of confusion as did Austria's, and the methods applied to its reform were not quite identical with those previously employed. A Commissioner-General (Mr. Jeremiah Smith, an American citizen) was, however, appointed and exercised supervision on the League's behalf till 1926.

The circumstances under which Greece and Bulgaria were driven to appeal to the League for financial aid have already been described. In both cases the Financial Committee worked

out schemes which enabled loans to be raised for the settlement of refugees. The method of control was necessarily different, but the essential principle was the same, supervision of expenditure by an authority reporting regularly to the League. In both instances the success achieved was such that the Governments concerned applied to the League in 1928 for help in the general reform of their financial position.

We may sum up this account by saying that the League was able, thanks to the technical ability at its disposal and to the general confidence it inspired, to contribute powerfully to European reconstruction and recovery. That it was unable to do more and ward off the catastrophe of the depression ought not, in common fairness, to be made a ground for criticism. A doctor may diagnose a case and prescribe a remedy; he cannot compel the patient to accept it. An acute observer, himself actively concerned in international affairs, has well described the mentality prevailing in recent years. "Man's spirit has for the moment faltered and his vision contracted. The public mood is apprehensive where it should be bold, and defensive where broad and generous policy is most required. Everywhere men fly to new tariffs and restrictions, to nationalist policies, domestic currencies, parochial purchasing, and personal hoarding—like frightened rabbits each scurrying to his own burrow."<sup>1</sup> Not in such a mood or by such methods can the world's economic ills be remedied. A fresh diagnosis of the disease is to be made; it remains to be seen whether the doctors of 1933 will be more successful than those of 1927 in inducing the patient at least to attempt a cure.

<sup>1</sup> Sir Arthur Salter, *Recovery*, p. 302.

## CHAPTER XV

### THE INTERNATIONAL LABOUR ORGANIZATION

The difficulties which oppose themselves to the betterment of the condition of our workers and which result from international competition can be, if not surmounted, at least diminished in no other way than by the international agreement of the countries which dominate the international market.

WILLIAM II, Berlin, February 4, 1890

ARTICLE XXIII of the Covenant pledges the members of the League, among other things, to "endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations." The Covenant speaks of "organizations," but the task of implementing this pledge has, in fact, been confined to a single body, the International Labour Organization.

Two main motives account for the inclusion of this provision in the Covenant. There was, in the first place, the pressure of organized Labour in the belligerent countries. As early as November 1914 the American Federation of Labour urged that at the close of the war the Peace Congress should deal with labour conditions; and as the conflict progressed the idea was taken up in Europe. Various conferences, national or international in composition, endorsed and developed it. Shortly after the Peace Conference had met, an international congress of Socialist and trade union organizations at Berne formulated what it called "a Charter of Labour," which declared that "it has become indispensable to build up a system of international labour legislation. . . . We see a possibility of getting this reform through the Society of Nations."

Since all the Governments at war had felt it necessary to conciliate their labour organizations by a variety of concessions, economic and political, these demands were highly influential.

The second motive was at least as powerful. The Russian Revolution threatened Europe, or seemed to do so, with a social upheaval of unparalleled dimensions. If its influence were to be arrested, positive steps to assure the working classes of improvement in their conditions must be taken. Thus, before the Berne "Charter" had been drawn up, the Peace Conference had appointed a commission to deal with this aspect of its work. On it sat, along with diplomatists and officials, experienced (and, therefore, conservative) trade union leaders such as Mr. George Barnes of Great Britain and Mr. Samuel Gompers of the United States. There is no need to follow its labours in detail; it was finally decided to insert in the Covenant only the general statement of Article XXIII and to confide its practical application to an auxiliary body, the International Labour Organization. The provisions for its constitution and the general principles on which it was to act were embodied in clauses which became Part XIII of the Treaty of Versailles, and were reproduced in the other treaties.

Part XIII opens with a preamble which is of more than formal importance, since it sets forth the purposes of the Organization and specifies the means by which they are to be realized. The League of Nations, it is said, has universal peace for its object, but "such a peace can be established only if it is based upon social justice." Now, "conditions of labour exist involving such injustice, hardship, and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled." Reform of these conditions is urgently required and can be effected by the adoption of legislative measures of which the preamble gives numerous examples. They include "the regulation of hours of work," "the prevention of unemployment," "the provision of an

adequate living wage," "the protection of the worker against sickness, disease, and injury," "the protection of children, young persons, and women." Yet "the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries." Therefore, the parties to the Treaty have agreed to the provisions which constitute the Organization.

Put in less formal language, the purpose of the Organization is to do for the world as a whole what most civilized countries have tried, more or less successfully, to do in recent times for themselves. All the advanced industrial states have formulated legal codes which regulate the conditions of labour in the interest of the workers. The details of the codes vary from country to country, but they are all inspired by a common aim, viz. to secure minimum conditions of health, safety, and well-being below which the play of economic forces must not drive the industrial worker. Such codes were in rapid process of development all over the world during the last quarter of the nineteenth and in the early years of the twentieth century. They have attained a scope and complexity often quite unrealized by persons not actually affected by them. But these developments in particular countries were paralleled by a movement which affected the world as a whole. Mechanical inventions applied to the production of commodities, to transport and to communications, created an economic community which was world-wide in extent. Increasingly, each section of this community was interlocked with every other section; local and national markets gave place to world markets in which goods produced under the most varying conditions met and competed for purchasers.

This economic internationalism, unplanned and unregulated, placed serious obstacles in the way of the legislative developments just described. Governments were, and indeed still are, loth to place restrictions upon industry, since such restrictions might lessen the ability of their nationals to compete effectively



in the world market. Shorter hours of labour, higher wages, the exclusion of children from industry, might be desirable in themselves, but if they forced up national costs of labour excessively, the intentions of reformers would be defeated by the hard facts of world economic conditions. It is true that such defeat is not inevitable; shorter hours may be followed by increased output, and "the economy of high wages" is a doctrine familiar to economists. Nevertheless, the risk was present, and such apprehensions joined with normal dislike of change and the play of selfish interests to put obstacles in the path of social progress.

Long before the World War, attempts had been made to break through this vicious circle. The price of progress was obviously international agreement, and individual philanthropists, labour organizations, and even Governments had urged its payment. A very limited and tentative beginning had been made by the framing of two international conventions (in 1906) the signatories of which agreed to prohibit the use of white phosphorus in the match industry, and to regulate the night work of women in industry. It had taken years of effort, both individual and Governmental, however, to achieve this meagre result. The new Organization was intended to provide permanent machinery of action and to the description of that machinery it is now time to turn.

Considerations of both theory and previous practice indicate that international agreement to establish uniform conditions of labour can best be effected by treaties or conventions. These will pledge the signatory Governments to take similar legislative action in regard to particular questions, e.g. to prohibit child labour in industrial undertakings at night or to fix maximum hours of employment for coal miners. The drafting of such conventions is, therefore, one of the main functions of the Organization, and it is performed in the following manner.

A General Conference meets annually in Geneva (where

are the Organization's permanent headquarters) and is composed of representatives sent by all states members. Membership of the League includes membership of the Organization, but certain states, e.g. Germany, belonged to the latter before admission to the League, and Brazil after leaving it. (The failure of the United States to enter the League has also kept it out of the Organization, though the first Conference met, ironically enough, at Washington!) Representation is organized on a functional or "interest" basis. Of the four delegates who may be sent by each member, two must represent the Government itself, one must represent the employers, and one the workers, of the country concerned. This arrangement is intended to secure the expression of the permanent interests of states as well as the more sectional interests of Labour and Capital.

A principal function of the Conference is to secure that international uniformity of action which the Organization exists to promote. It seeks to do this in two ways. It may adopt a Recommendation, i.e. it may advise members to take legislative or administrative action on a particular problem. It may go farther and adopt a convention which, when ratified, will pledge the members to such action. Both recommendations and conventions require majorities of two-thirds of the votes cast by the delegates present before they can be adopted.

Once adopted, recommendations and conventions are sent through the Secretary-General of the League to all the Governments which belong to the Organization. Part XIII of the Peace Treaties obliges them, within eighteen months at latest, to "bring the recommendation or draft convention before the authority . . . within whose competence the matter lies for the enactment of legislation or other action." This means, in the case of Great Britain, that the Cabinet is bound to decide whether it will accept a recommendation or ratify a convention, and take the necessary action in Parliament if

legislation be required. But no member is bound to accept or ratify; its individual sovereignty is completely safeguarded. All it is compelled to do is to place the matter before the proper constitutional authority, whatever it may be, for decision. Only in those countries where the Parliaments have a constitutional right of ratification is it necessarily submitted to public discussion. If the decision be adverse, the matter ends and the member has no further obligation concerning it; if, on the other hand, the decision be favourable, acceptance or ratification must be notified to the Secretary-General and necessary action taken to give the decision legislative or administrative form.

It will be clear, however, that a conference which may include two hundred delegates, and meets for a few weeks only once a year, could never, unaided, frame international agreements on highly technical subjects. Careful preparation is needed, and this may involve exhaustive inquiry and discussion. This preparatory work is undertaken by two other organs of the International Labour Organization.

The first of these is the Governing Body, which is composed of twenty-four members. Twelve of these represent Governments, six are elected by the delegates to the Conference, who represent employers, and six by the delegates to represent workers. Thus, the functional or "interest" principle of representation is applied throughout the Organization. Of the twelve Governmental representatives, Part XIII decrees that eight shall be nominated by the states members of "chief industrial importance," the remaining four being nominated by the members selected for the purpose by the other Government delegates to the Conference. A principle similar to that which establishes permanent members of the League Council is thus applied to the Governing Body. In practice, it caused no small difficulty, for it was not easy to decide what constituted "industrial importance" by some objective test; indeed, the League Council had to be asked to intervene to

secure a solution of the problem. The eight states which have permanent representation are :

|         |               |
|---------|---------------|
| Belgium | Great Britain |
| Canada  | India         |
| France  | Italy         |
| Germany | Japan         |

As its name implies, the Governing Body is essentially executive in character; it settles the agenda for the General Conference and exercises general supervision over the Organization's work. In particular, it controls the International Labour Office, the second of the organs mentioned above.

The Office stands to the Organization in the same relation as the Secretariat to the League. At its head is a Director, appointed by the Governing Body. To the Office fall those tasks of preparation and research on which the efficient working of the Organization ultimately depends. It brings together all available material for the discussion of particular problems; circulates questionnaires to Governments and tabulates their replies; finally, it prepares drafts for discussion and amendment by the Conference. These do not exhaust its activities; it is charged by Part XIII of the Treaties with "the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labour," and it has given this rather vague instruction remarkable application. It issues several most valuable serial publications, notably the Legislative Series, in which the texts of all important laws and decrees affecting labour conditions are printed in translation. It organizes original research and publishes the results. These may take the form of accounts of labour conditions in particular countries, or of the practical results of legislative experiments. Its "Studies and Reports" are now indispensable to the academic economists as well as to practical men, such as employers, trade-union officials, and members of legislatures. It is proper to note that only an official body of a permanent kind could undertake this work;

no single Government has its facilities or could speak with the same impartial authority. Its first chief was M. Albert Thomas, a famous French Parliamentary Socialist. In contrast to the Secretary-General of the League, he played an active part in openly urging the objects of the Organization, and his energy and enthusiasm were a marked factor in its success. He was succeeded by an Englishman, Mr. H. B. Butler, his second in command, who has won the confidence of all parties in the Organization.

It is time, however, to recur to the Organization's main function—legislation—and to consider what measure of success has attended its efforts to build up a generally accepted code of labour law. We note, in the first place, that thirty-one conventions have been adopted by successive General Conferences. They deal with a wide range of subjects, though inevitably these are of varying importance. The total number of ratifications effected by members is 477 (up to October 1932). Taking these figures as they stand, it seems fair to say that the Organization has made a real advance towards its objective, since they clearly represent a large measure of agreement and co-operative action. Without detracting in any way, however, from the force of this conclusion, certain other facts must be borne in mind.

To begin with, nineteen states have ratified no conventions whatever. A third of the Organization's membership, therefore, has made no effective contribution to the success of its work. Unfortunate as the fact may be, its seriousness is mitigated by the consideration that most of the states concerned are of slight industrial importance. That Ethiopia has not yet agreed to regulate night work in bakeries or provide for inspection of emigrants on board ship may be regrettable, but the fact need not be regarded tragically. It is more useful to turn to the records of the eight states recognized as of "chief industrial importance," and consider their significance. The following table will make the position clear.

| <i>State of chief industrial importance</i> |    |    |    |    |    | <i>Number of conventions ratified</i> |
|---|----|----|----|----|----|---------------------------------------|
| Belgium                                     | .. | .. | .. | .. | .. | 20                                    |
| Canada                                      | .. | .. | .. | .. | .. | 4                                     |
| France                                      | .. | .. | .. | .. | .. | 18                                    |
| Germany                                     | .. | .. | .. | .. | .. | 16                                    |
| Great Britain                               | .. | .. | .. | .. | .. | 18                                    |
| India                                       | .. | .. | .. | .. | .. | 12                                    |
| Italy                                       | .. | .. | .. | .. | .. | 17                                    |
| Japan                                       | .. | .. | .. | .. | .. | 12                                    |

(To avoid misunderstanding it must be noted that under Canada's federal constitution many of the questions dealt with in conventions could not be legislated on by the National Government.)

On the whole, these figures give grounds for a temperate optimism regarding the Organization's work. The great European industrial communities have reached, as can be seen, a large measure of uniform progress. It is possible to wish that they had gone farther and faster; on the other hand, it must be remembered that, since the war, all their Governments have been preoccupied with problems, national and international, of the gravest kind.

This leads us to a reflection of general application. Since 1919, Europe and the world as a whole have been subjected to serious strains and stresses, both economic and political. The Organization began its work in a period of industrial confusion caused by the war. When this showed signs of passing away the rapid fall in the level of world prices precipitated a crisis which affected all countries and is not yet at an end. Now, it is always difficult to effect social improvements in a period of economic stress, for the forces normally obstructive of change are then supported by the general sense of insecurity. The Organization has felt the full force of these conditions, and it has suffered, too, from the exaggerated nationalism that has afflicted all countries to a greater or less degree in the post-war period.

If these facts be borne in mind, it is perhaps true to say that what is remarkable is not the Organization's failure,

but its measure of real success. It seems safe, too, to predict for it a future of even greater usefulness. All the available evidence shows that the economic restoration of the world involves increased measures of international co-operation. Those measures will be hampered in the fields of industrial organization and policy if they are not accompanied by other measures designed to secure the standards of working-class life. Therein will lie the great opportunity for the International Labour Organization.

## CHAPTER XVI

### TRANSIT AND COMMUNICATIONS

Transit is to be granted not only to persons but to merchandise; for no one has a right to impede one nation in cultivating trade with another remote nation; for it is of advantage to the human race that such intercourse should be permitted.

GROTIUS, *De Jure Belli et Pacis*, II, 2, xiii

THE modern world is, in a sense, the creation of the railway and the steamship; without those agents neither our economic system nor our present cultural relations could have come into existence or be maintained. Transit and communications, therefore, are matters of vital concern to modern communities, and their very nature makes them inevitably subject to international regulation. Railways and steamship services cannot be run in isolation; if they are to function at all there must be some measure of co-ordination and co-operation. These facts, which, though they may appear commonplace and obvious, are too seldom realized by popular opinion, were present to the minds of the authors of the Covenant; hence the inclusion in that document of Article XXIII (e), which pledges states members to "make provision to secure and maintain freedom of communications and transit, and equitable treatment for the commerce of all members of the League." The implementing of this pledge has given birth to one of the most interesting and (potentially) important of the League's organs.

Transport and communications are obviously highly technical matters; it is true that problems of a political character may arise concerning them, but in the first instance, at any rate, they call for expert treatment rather than the intervention of diplomats. This fact has dictated the constitution and methods of work of the League's Organization for Communications and Transit—to use the full official title. In what follows, for



brevity's sake, it will be referred to simply as the Organization.

Membership of the League naturally involves membership of the Organization, but it is important to note that states non-members may be admitted by the Assembly or by the General Conference (presently to be described) of the Organization itself. So far as its constitution is concerned, three bodies or organs require notice:

- (1) The General Conference.
- (2) The Advisory and Technical Committee.
- (3) The Secretariat.

The General Conference meets regularly every four years, but the Council of the League may convene an Extraordinary General Conference at any time. One-half of the members of the League may also requisition an Extraordinary Conference.

The Conference is attended by delegates of the states members, delegates who, for obvious reasons, are drawn from the ranks of experts. Members of the Advisory and Technical Committee also attend, and representatives of important national or international bodies may be invited to be present in an advisory capacity. States which are not members of the Organization may also send delegates by invitation; they take part in the work of the Conference on an equal footing with full members. Thus, the United States, Egypt, Ecuador, and Turkey all took part in the Third General Conference (1927).

The Advisory and Technical Committee is a much smaller body than the Conference and meets more frequently—usually twice a year. It is composed of members appointed by states designated for this purpose by the General Conference, and of members appointed by states permanently represented on the Council of the League. The Committee can and does add outside experts to its ranks.

The Secretariat is a section of the League's Secretariat and works, as do all such sections, under the general supervision and authority of the Secretary-General.

The Organization, though a part of the League's machinery and financed from its budget, enjoys a very large measure of freedom. The Council and the Assembly receive reports of its activities and are notified of its decisions; they can, by a unanimous vote, prevent these decisions being communicated to states members or ask for their reconsideration, but this right has never been exercised. The subject-matter of the Organization's work is highly technical; its decisions or recommendations are arrived at by qualified experts, and the League, which is essentially a political body, has the good sense to restrict its supervision to a minimum. Of course, should diplomatic action be necessary, e.g. if the Organization prepares a convention which requires the ratification of Governments, the proper League machinery is employed.

The task to which the General Conferences have applied themselves may be described as the translation into practical effect of the general pledges given in Article XXIII (*e*) of the Covenant. Clearly it is not sufficient for states to promise "to secure and maintain freedom of communications and of transit"; practical means must be found by which the promise may be made good. In the same way "equitable treatment for the commerce of all members of the League" is something which must be defined in precise and legal terms, capable of being acted upon by all the Governments concerned, if it is not to remain a mere pious hope. The Conferences have sought to carry out this task by framing conventions, i.e. treaties suitable for ratification by a number of Governments which pledge the signatories to uniform action with regard to the subject-matter of the agreements. A brief description of certain of the conventions framed by the Conferences and now actually in force will make the process clear.

Under modern conditions much transport is of the kind technically described as "transport in transit," i.e. transport which passes through the territory of one or more states, having its points of departure and arrival outside them. It will

be clear that the states thus traversed can, if they so desire, inflict considerable injury upon their neighbours' trade by imposing restrictions of various kinds. The first General Conference (held at Barcelona, 1921) provided against such a possibility by framing a convention which establishes the twofold principle of complete freedom of transit and complete equality of transit conditions. As will be seen, this is a direct application of the principle laid down in Article XXIII. The same statement applies to another convention framed at Barcelona in 1921, viz. that which deals with Navigable Waterways of International Concern. In this instance the Conference built upon a long-standing foundation of international agreements, for, since the Congress of Vienna, the equal right to the free use of international rivers, i.e. those passing through two or more states, has been asserted and provided for. This convention generalized the principle, thus giving an important extension to "freedom of communications." The discussions which led up to the framing of this convention had a further interesting consequence. Certain states declared their willingness to apply, on a reciprocal basis, its general principles to all their waterways and not merely to those of an international character. A protocol was accordingly drawn up, the signature of which makes the application of this principle easy to states desiring to accept it.

A list of the other agreements framed by successive Conferences is given at the end of this section. One feature of great importance is common to them and must be noted here. The signatory states agree to refer all disputes arising out of the interpretation or application of the conventions to the Permanent Court of International Justice; they agree further that, before resorting to judicial process, they will seek the assistance of the Organization to arrange an amicable settlement. Thus, the principles of conciliation and judicial decision are extended to a field in which the clash of economic interests renders disputes between states as easy as they must be

disastrous. This in itself is a triumph of the idea of that "reign of law" in international affairs which the League exists to promote.

In addition to the General Conferences held at regular intervals, the Organization has promoted the meeting of conferences of a special and limited scope. Problems arise which only concern the Governments of a particular region or continent, and they can be best handled by the interested Governments themselves. Equally, the subject-matter of the question may make a special conference desirable. Thus, special conferences were held in 1920, 1926, and 1929 to deal with the International Passport System and related matters. These conferences did not succeed in abolishing passports or visas, but they did procure the cheapening of these documents and the extension of their validity in a number of cases; further, special arrangements favourable to emigrants were decided upon. Again, a special conference of maritime states was held at Lisbon in 1930 to consider a uniform system for the buoyage and lighting of coasts.

In the preparation of these General and special Conferences, the Advisory and Technical Committee of the Organization necessarily plays a most important part. Numerous assemblies, such as the Conferences, cannot carry out the detailed work of investigation which must precede legislation on highly technical questions. This task, together with the drafting of conventions, falls to the Committee, which has created an elaborate organization for its fulfilment. It works through six standing committees, to which experts outside its own ranks are freely summoned. But these labours by no means exhaust the Committee's functions. It is constantly being called upon to advise the League on matters falling within its competence, or to carry out investigations on particular subjects. Thus, at the request of the Genoa Economic Conference of 1922, the Committee investigated the condition of European railways and waterways. Its experts have frequently been called in

to advise on the many vexatious questions which have arisen between the Free City of Danzig and Poland; similarly, it helped to frame the Convention of 1924, which dealt with the status of the Territory of Memel, and it appoints a member of the Harbour Board set up by that Convention. Again, the Committee has been called upon to advise concerning matters which arise out of the League's work on disarmament. Not only does the Committee advise the League; it is increasingly called upon to assist states members. In 1931 the Chinese Government sought assistance for the carrying out of a programme of public works in the river system of Northern China, and in the development of Shanghai. Thus, the Organization is accomplishing what the Twelfth Assembly called "its essential task of placing an impartial service for the study of the great economic and technical questions of communications and public works at the disposal of all nations."

Moreover, as has been said above, the Committee has conciliatory duties to perform. Its services have been called upon in this connection on several occasions. It was successful in composing a dispute between the German Government and that of the Saar Territory, and its proposals have helped to secure agreement in other cases.

One activity of the Transit Organization deserves separate mention, viz. its work with regard to the Reform of the Calendar and the fixing of Easter, questions which, though closely allied, are not inseparable.

The defects of the present Gregorian calendar, from both the scientific and economic standpoints, are obvious. Months, quarters, and half-years are of unequal length, hence the need for special calculations in regard to salaries, interest, insurance, leases, and rents fixed on the basis of these divisions of time. The dates of periodical events can never be fixed with precision, hence the need for special decisions or legislation on such matters as the dates of public holidays and the fixing of summer-time. Again, owing to the unequal length of

time periods, and the fact that years do not include the same number of individual weekdays, accurate statistical comparisons between months or years is impossible—a serious difficulty in both commerce and administration. The changing date of Easter causes innumerable inconveniences in Governmental, scholastic, commercial, and religious spheres of activity.

The Advisory Committee took up the discussion of these problems in 1923, and, for their better consideration, appointed a special committee on which representatives of the main body sat along with scientists and nominees of the Pope, the Patriarch of Constantinople, and the Archbishop of Canterbury. This committee organized exhaustive inquiries into the views of Governments, religious bodies, and international organizations. As a result of these it reported, in 1926, that so far as the calendar was concerned, “public opinion was not yet prepared, even if it welcomed reform, to press for immediate action in a particular direction.” For this reason, it recommended the setting-up of national committees to undertake the necessary work of educating and preparing the public mind for change. Concerning Easter, it recommended a fixed date, viz. the Sunday following the second Saturday of April. It laid great stress on the fact that neither reform was practicable “without an agreement between the various high religious authorities concerned.”

Considerable time was needed for the national committees to be founded and report, so that it was not till 1931 that the question came before the Organization at its fourth General Conference. That body, after reviewing the inconveniences caused by the instability of movable feasts, placed on record its view in favour of their stabilization on the grounds of the common good and requested the Council of the League to bring this resolution to the notice of the religious authorities concerned. A discussion on calendar reform led to an almost unanimous expression of opinion that the time was not ripe for practical action. The Council approved the proposed com-

munication to religious authorities at its sixty-sixth session. The decision now really rests with the Churches; given their agreement, there is no reason why this rational proposal should not be put into practical operation.

This necessarily brief account of the Communications and Transit Organization has sufficed, it may be hoped, to justify the statement as to the potential importance of that body with which it began. The value of its work is likely to increase in the immediate future. If Europe and the world are to be drawn from the economic Slough of Despond in which they are now struggling, it is apparent to everybody that existing barriers to the distribution and exchange of commodities must be reduced. This task must, in the first instance, be political, but obviously it has its technical aspects also, and with regard to these the Organization should have a vital part to play. Looking still farther ahead, it seems clear that the "reign of law" in international affairs must apply to the economic relations of states as well as to the political. The work already accomplished by the Organization shows what it may achieve in this sphere in the future. It has shown that it can draw on great stores of knowledge and good will; it is efficient for its purposes; most important of all, it is constantly in being, investigating and preparing, and thus can take up its practical functions whenever peoples and Governments have wisdom enough to give it scope.

## NOTE

The following Conventions and Agreements have been framed by the Communications and Transit Organization :

- (1) Freedom of Transit, 1921.
- (2) Régime of Navigable Waterways of International Concern, 1921.
- (3) Additional Protocol to the above, 1921.
- (4) Declaration recognizing the Right to a Flag of States having no Sea-coast, 1921.
- (5) International Régime of Railways, 1923.
- (6) International Régime of Maritime Ports, 1923.
- (7) Transmission in Transit of Electric Power, 1923.
- (8) Development of Hydraulic Power affecting more than one State, 1923.
- (9) Measurement of Vessels employed in Inland Navigation, 1925.
- (10) Transit Card for Emigrants, 1929.
- (11) Maritime Signals, 1930.
- (12) Manned Lightships, 1930.
- (13) Collisions in Inland Navigation, 1930.<sup>1</sup>
- (14) Registration of Inland Navigation Vessels, 1930.<sup>1</sup>
- (15) Right of Inland Navigation Vessels to a Flag, 1930.<sup>1</sup>
- (16) Unification of Road Signals, 1931.<sup>1</sup>
- (17) Taxation of Foreign Motor Vehicles, 1931.<sup>1</sup>

<sup>1</sup> Not yet in force.



## CHAPTER XVII

### SOCIAL AND HUMANITARIAN ACTIVITIES

- (a) The Drug Traffic.
- (b) The Protection of Women and Children.
- (c) Slavery and Forced Labour.
- (d) Health.

No! He it is, the just, the gen'rous soul,  
Who owneth brotherhood with either pole,  
Stretches from realm to realm his spacious mind  
And guards the weal of all the human kind.

*Social Hymns, 1840*

PREVIOUS chapters of this book have described the efforts of the League to promote, in various spheres of human activity, that "international co-operation" which the Covenant defines as one of its primary objects. Our survey would be incomplete if we omitted to discuss the application of this principle to what may be called social, as distinct from economic, questions. Before the World War it had already become apparent that certain desirable social reforms involving the moral and physical well-being of peoples could only be achieved by the co-operation of Governments. Basing themselves upon experience, therefore, the authors of the Covenant confided to the League powers of oversight and direction with regard to these activities. This chapter will attempt to illustrate the League's work in certain of these spheres.

#### (a) THE DRUG TRAFFIC

Article XXIII (c) of the Covenant entrusts the League with "general supervision over the execution of agreements with regard to the traffic in opium and other dangerous drugs." The origin of this Article must be sought before the World War and a brief summary of the facts is necessary to make subsequent developments comprehensible.

For many years the disastrous consequences of opium smoking in China had attracted the attention both of the Chinese Government and of friends of China in Europe and the United States. In 1906 the Chinese Government declared its intention to suppress the practice within its frontiers in a period of ten years. This courageous step met with immediate response from missionary and other interested organizations, and the demand was made that China should receive the sympathetic help of other states. As a result, the United States Government proposed an international investigation into the subject, and an Opium Commission, on which thirteen Powers were represented, met at Shanghai in 1909. Its recommendations led to the meeting of an International Conference at the Hague in 1912. This body formulated a convention which it proposed should be ratified and put in force by all interested Governments.

The Hague Convention of 1912 requires a brief analysis since it laid the foundation of all subsequent action. We may note, first, that its scope was extended beyond opium to other dangerous narcotics, e.g. morphine, cocaine, and their derivatives. This extension was the result of a proposal by the British Government. The other provisions of the Convention fell into four parts. So far as raw opium was concerned, the signatories were required to make effective laws or regulations controlling its production and distribution; to prevent its export to countries which had prohibited its entry and to control export to countries restricting its import; finally, to forbid import or export save to authorized persons. With regard to *prepared opium*, i.e. opium in a form ready for smoking, the Convention bound signatories to take effectual measures for the *gradual* suppression of its manufacture, internal trade in, and use; they were also to forbid its import and export, but this provision had the important qualification that states which were not yet ready to prohibit export entirely should do so "as soon as possible." In any event, they were to control export along lines

similar to those laid down for raw opium. Derivatives of opium and other dangerous drugs were only to be manufactured sold, imported, and exported under Government licence, and the signatories pledged themselves to limit the use of these drugs to legitimate, i.e. medicinal, purposes. Finally, the signatories agreed to assist China by preventing the smuggling of opium into her territory, while China accepted reciprocal obligations.

There was considerable delay in putting the Convention into operation owing to the refusal of many Governments to ratify its provisions; finally, in June 1914, eleven states having ratified, the Convention was declared in force as between those countries which had accepted it. The outbreak of the World War, however, prevented any effective steps being taken to implement its provisions, and it was not till 1919 that the question re-entered the field of practical politics. This re-entry was effected in two ways. First, a clause was inserted in the Treaty of Versailles whereby ratification of the Treaty automatically involved ratification of the Convention of 1912; this naturally resulted in the acceptance of the Convention's provisions by a greatly increased number of states. Secondly, to secure that the whole question should be continuously kept in view, Article XXIII (c) was inserted in the Covenant of the League. The importance of this second step will be obvious.

The First Assembly decided that to facilitate the practical execution of the League's duties under Article XXIII (c), an Advisory Committee on Traffic in Opium and Other Dangerous Drugs should be established, and this was done in 1921. The method employed in its formation was to invite certain states to nominate members, the states in question being

|               |             |
|---------------|-------------|
| China         | Japan       |
| France        | Netherlands |
| Great Britain | Portugal    |
| India         | Siam        |

All these states were, it will be seen, directly interested in

the question, either by reason of their own internal problems or by reason of the interests of their overseas dominions. Whether this was the ideal method of constituting the Committee may well be doubted. However, it should be noted that subsequently other states were asked to appoint representatives upon it, including Germany (not then a member of the League) and the United States. Representatives of the last named acted in a "consultative capacity" only. After the most recent of such additions, the Committee consisted of twenty members representing as many Governments; they were assisted by three independent experts.

The machinery for action once in existence, the first step necessary in the campaign against deleterious drugs appeared to be to secure, first, the widest possible acceptance of the Hague Convention, and second, the adoption of methods for its effective application. So far as the first point is concerned, it suffices to note that fifty Governments have now ratified the Convention. With regard to the second, the Advisory Committee took action along two main lines. It organized itself as a clearing-house for the exchange of information between Governments on the extent of the drug traffic and the methods pursued by those engaged in it; at the same time, it devised a system of import certificates by means of which Governments could secure that only persons licensed by themselves should export or receive supplies of drugs. This was intended to secure that the trade should be confined to legitimate purposes.

Unhappily, these measures proved to be insufficient. The Committee, with the help of the League's Health Organization, undertook a survey of world production of narcotics. It was discovered that after making a generous estimate of the amount of such drugs required for legitimate, i.e. medicinal purposes, the volume of world production was about ten times that amount. Illicit traffic was shown to be highly organized and heavily financed; the "dope menace" (to use the language of

journalism) was not merely a menace but a ghastly and increasing evil.

Obviously, more efficacious measures were needed. The Fourth Assembly provided for the meeting of two conferences to devise such measures. The first of these was to consist of Powers with territories in the Far East where opium smoking was temporarily continued under the Hague Convention; the Conference was to devise means for the reduction of the amount of opium used. The Second Conference was to be general in membership; its purpose was to be to concert measures for the limitation of the production of narcotics, including raw opium, and for the restriction of imports of such narcotics to the amount required for medicinal and scientific purposes.

The First (or Far-Eastern) Conference sat from November 1924 to February 1925. It produced an agreement of which the essential provisions were: (1) All dealings in opium were henceforward to be Government monopolies. (2) The following uses of opium were to be prohibited: its sale to minors; its exportation in any form from countries permitting importation for smoking purposes; the transit through, or transshipment in, such countries of *prepared* opium; the transit or transshipment of raw opium unless the traffickers held import certificates. (3) Governments were to co-operate against smuggling, to interchange information, to discourage the use of opium by education and propaganda.

By a supplementary agreement or protocol it was provided that within five years smuggling should be reduced to a point where it was no longer a serious obstacle to the suppression of opium smoking in those territories where the practice was temporarily authorized. A committee appointed by the League Council was to decide whether this had been done. When such reduction was effected, the Governments concerned would be automatically bound to end the use of prepared opium in fifteen years.

This protocol was the subject of vigorous criticism at the

time of its adoption and since. It was argued that it adjourned the suppression of opium smoking to an indefinite future since it made such suppression contingent on a highly uncertain event, i.e. the disappearance of smuggling. Thus, the obligations assumed by the states concerned under the Hague Convention were drastically reduced and the intentions of that agreement thwarted. To this it was replied, in effect, that the Conference was confronted with a condition, not a theory; that till smuggling was abolished all attempts at suppressing smoking would be futile, and that it was better to proceed by practical measures than attempt the impossible.

The Second Conference also sat from November 1924 to February 1925. Its proceedings were marred by acute disagreements, and the delegates of the United States and China finally withdrew from the discussions. (China also withdrew from the First Conference.) The Conference, nevertheless, drafted a convention which, in effect, replaced sections of that of 1912. This pledged states accepting it: (1) to take effective measures to confide the manufacture and distribution of dangerous drugs (which were defined in the convention) to medical and scientific purposes; (2) to adopt the licensing system for exports and imports. It provided for the establishment of a Central Opium Board, made up of independent experts, to which all the signatories should be required to furnish adequate statistics as to the manufacture of, and trade in, drugs; if the Board became convinced that a country was accumulating stocks in excess of legitimate needs, it could demand explanations and, if necessary, ask other states to cut off supplies from the offender.

There was, unhappily, considerable delay in the acceptance and application of the convention. The Central Opium Board was not set up till 1928; once in existence, it did valuable work, but the information which came into its hands revealed a highly unsatisfactory condition of affairs. To quote a valuable pamphlet issued by the Information Section of the Secretariat, "dur-

ing the next five years [after the adoption of the 1925 Convention] the illicit traffic assumed alarming proportions. . . . The annual reports from the Governments and the cases of seizures reported that year [1929] to the League showed no notable improvement." The Egyptian Government estimated the number of drug addicts in its population at half a million. It was inevitable under these circumstances that a demand should be made for a fresh attack on the problem. The Geneva Convention had attempted to solve it by what has been called the method of indirect limitation, i.e. by control of distribution. From 1927 on it was urged in the Advisory Committee and elsewhere (notably by the Italian representative) that *direct* methods must be applied, viz. that countries should be required to state publicly the amount of drugs they required for legitimate needs, and the sources from which they proposed to obtain them. Thus, both manufacture and distribution would be rationed.

There ensued an interesting conflict of opinion in all the bodies of the League concerned—the Committee, the Assembly, and the Council. On the one side were those who urged that existing methods had proved inadequate, and pressed for more drastic remedies of the admitted evil; on the other were those who replied that it was better to be content with accomplished reforms and moderate progress than resort to untried measures of merely speculative value. The situation is familiar enough in the domestic politics of all countries, but it is important to realize that it can and will reproduce itself in international political bodies when they come to grips with real problems. In this instance the radical reformers triumphed; the Tenth Assembly approved a motion that steps should be taken "without delay to limit the manufacture of drugs to the amounts required for medical and scientific purposes." To lay down broad principles of reform, however, is one thing; to translate them into working practice is quite another, and this events speedily proved. The Advisory Committee prepared a plan,

and this was referred to a conference of the countries which were the principal manufacturers of drugs. It seemed clear that if production were to be limited to known amounts, there must be some agreed system of quotas in which manufacturers could share. The producers of Germany, France, Great Britain, Switzerland, and Holland proposed the formation of two cartels which should control the whole business, but as they desired to constitute the cartels themselves it was hardly likely that other interests would agree. Nor did they. The Russian representatives, presumably scenting a capitalist conspiracy, attacked the whole idea of cartels on the grounds that they would increase prices, oppress consumers, and thus actually encourage illicit traffic. Turkey demanded that it should be allotted one-third of the total world production! There was no complete measure of agreement in the conference, and the question had to be taken up again by the Advisory Committee, specially enlarged for the purpose.

The old issues reappeared, of course, in the Committee's discussions, reinforced by new ones; it persisted, however, and finally the Council was able to summon a Conference for the Limitation of the Manufacture of Narcotic Drugs to meet at Geneva in May 1931. It was attended by the delegates of fifty-one Governments (including those of Soviet Russia and the United States) and succeeded in framing a convention, the contents of which may be briefly summarized as follows. The drugs covered by the convention are carefully defined.<sup>1</sup> Signatory states must supply annually estimates of the amount of such drugs needed for all purposes, and these estimates will be examined by a Supervisory Body made up of representatives of the Central Opium Board, the Health Committee of the League, and similar bodies. On the basis of them a world drug manufacture total will be established. The signatories also agree: (1) to limit the amounts manufactured in their respective

<sup>1</sup> Readers may care to know that one of these drugs is named "acetyldihydrodemethylothebaine."



countries to those mentioned in the estimates; (2) to control exports by the methods prescribed in the Geneva Convention; (3) to create, if they have not already done so, a special administration for the purpose of applying the convention and regulating the drug traffic generally; (4) to report to the Secretary-General annually on the working of the convention. Disputes concerning the interpretation of the agreement will be settled by arbitration or judicial procedure.

The convention has not yet received a sufficient number of ratifications to bring it into force. (The United States stands alone among the major Powers in having ratified.) Speculation as to its efficacy, therefore, would be premature. It may be noted, however, that before its adoption there was evidence that the increasingly efficient application of the 1925 Convention was bringing about a real decline in the trade, in spite of the extraordinary ingenuity, worthy of a better cause, displayed by the drug traders. In this, as in so many other matters, the issue really depends upon the force of world opinion.

For the sake of completeness it may be noted here that another Far-Eastern conference on Opium Smoking met at Bangkok in November 1931. It had before it a bulky report prepared by an expert commission set up by the Council in 1929, and on this basis prepared an agreement supplementary to that adopted in 1925.<sup>1</sup>

Apart from increased regulation of the sale of opium, its most important provision is that which prohibits persons under twenty-one from opium smoking.

The League's handling of the drug problem has been described at this length because it provides an excellent illustration of League methods, and because it shows clearly the limitations imposed on international action under existing conditions—economic, political, and psychological. No one denies that a great evil exists, yet the progress made towards eliminating it during twenty years of effort has been dubious

<sup>1</sup> See p. 262.

and slow. Old habits, sinister interests (of both Governments and individuals), considerations of political prestige have all combined to make the League's task one of extraordinary difficulty. Nor can it be confidently said that a final solution is in sight. What seems certain, however, is that without a permanent organization such as the League, charged with the duty of handling the problem, the achievement of such progress as has actually been made would have been quite impossible.

#### (b) THE PROTECTION OF WOMEN AND CHILDREN

The preceding section of this chapter has described certain of the obligations imposed upon the League by Article XXIII (c) of the Covenant, and the way in which those obligations have been met. The Drug Traffic is not, however, the only subject dealt with in that Article; the League is also entrusted with supervision "over the execution of agreements with regard to the traffic in women and children."

This wording reminds us that, as in the case of opium, attempts had been made to deal with this terrible problem internationally before the League came into existence. The development of a world system of transport and communication has had evil consequences as well as good; the organized extension of the traffic in vice is one of the debit items in the account. This fact was recognized early in the present century when the labours of voluntary organizations led to a meeting of diplomatic conferences, and the framing of an international agreement in 1904. Another conference met in 1910 and this drew up a convention supplementary to the agreement. The earlier document had involved the setting-up, by Governments which were parties to it, of central authorities whose duty it was to collect information concerning the traffic, to watch ports where it was carried on, and to assist the unfortunate beings who were its subjects. The Convention of 1910 pledged the signa-

tories to uniform legislation whereby acts in pursuance of the traffic were made punishable offences, whether committed against persons under or over age, and whether such acts were committed in different countries. Governments, unfortunately, were slow to accept these obligations; at the beginning of 1920 only sixteen states had accepted the agreement and only ten the convention.

Such was the situation when the League came into active existence. The First Assembly requested action from the Council with the result that a new convention was adopted by the Second. This agreement had been prepared by a special conference summoned by the Council. It binds the signatories to adopt the earlier international agreements and to act upon them; it makes attempts to commit illegal acts punishable, renders the extradition of offenders easier, raises the age of consent, provides for the better regulation of employment agencies, and prescribes for measures protective of women and children who emigrate. The Convention of 1921 has been very extensively ratified and put into operation by Governments, an interesting illustration of the value of a permanent organization such as the League.

The League's instrument of action in regard to this problem is the Advisory Commission. This is made up of Government delegates who are assisted by advisers representing voluntary organizations specially interested. To it go the annual reports made by Governments, and its discussions serve not merely to influence the League but to inform public opinion. In 1924 the Assembly decided that the promotion of child welfare should be added to the League's objects, with the result that the previously existing Advisory Committee was reorganized and given its present structure. It is now described as the Advisory Commission for the Protection and Welfare of Children and Young People, and is divided into two committees—Traffic in Women and Children, and Child Welfare. The personnel of the two bodies is largely the same. The first-named

has been considering for some time past the amendment of the 1921 Convention with a view to strengthening its provisions, and at its session of 1932 requested the Council to approach the interested Governments with a view to action. The 1932 Assembly agreed to seek a revision of the 1910 and 1921 Conventions abolishing the age-limits contained in them.

What results have the League's activities in this sphere achieved? The wide acceptance of the Convention is a fact of the first importance in this connection, since it means that many more Governments are taking administrative action against the traffic and that penal laws have generally been rendered more severe and efficacious. This is not to say, of course, that the traffic has disappeared or is likely to do so in the immediate future. In 1923, on the proposal of the American representative, the Advisory Committee urged on the Assembly and the Council the need for an expert inquiry into the traffic. Thanks to a generous gift by the American Bureau of Social Hygiene, this was made possible, and the work was undertaken by a body of special investigators. A remarkable report was issued in 1927. This showed that the traffic continued and was of considerable dimensions, that it was still concerned to an unhappily large extent with girls under age, and that it was surrounded with appalling circumstances of fraud, cruelty, and degradation. It was shown that the traffickers had already felt the increased pressure upon them resulting from the League's work. If the end of the evil could not be said to be in sight, at least its reduction was in process. The value of the investigation (which had a great effect on public opinion) was such that it was decided, in 1929, to extend it to the Far East.

One other result of the League's activities may be noted. In the course of the discussions on this question, the issue of licensed houses of prostitution was repeatedly raised. It is well known that many Governments, on grounds of public health, endeavour to control vice by the licensing of such houses and the inspection of their inmates. The desirability

of such a policy has long been combatted in our own and other countries on grounds both of principle and expediency. The League's discussions have strengthened this critical attitude, and there is evidence of an increasing tendency to abandon the policy of state regulation.

### (c) SLAVERY AND FORCED LABOUR

A statement, issued on the anniversary of the death of William Wilberforce, by the Archbishop of Canterbury and representatives of the Free Churches, reminded the public that slavery—which most of us have been used to regard as a vanished evil—still exists; that millions of human beings are still held in bondage in different parts of the world, and that the odious traffic in slaves continues. A brief review of the League's work in regard to this question and the related problem of forced labour is essential in any account of its humanitarian activities. Incidentally, but fulfilling the aim of this book, the League's methods will be usefully illustrated.

The issue of the continued existence and even the increase of slavery was originally raised in the sessions of the Third Assembly by Sir Arthur Steel-Maitland, then the representative of New Zealand. In accordance with the usual procedure, the matter was referred to the Assembly's Sixth Committee, that which deals with political questions. The first step was obviously to establish the facts; the second, to create a public opinion favourable to action. The Assembly, accordingly, at the Committee's suggestion, resolved to ask the Council to instruct the Secretariat to investigate; at the same time it agreed to place the question on the agenda for its next meeting. The Fourth Assembly in turn received a report from its Sixth Committee; this complained of the paucity of information supplied to the Secretariat by states members and urged a more extended inquiry. The Assembly acted on this proposal and

requested the Council to appoint "a competent body" to investigate the matter anew. A special temporary committee was accordingly set up which included three members of the Mandates Commission and the delegate of the International Labour Organization to that Commission. Its report, when issued, was of a severely practical kind; it stated the admitted facts as to the existence of slavery, proposed means for its abolition as also for the traffic in slaves and for various practices, e.g. the enslavement of children under the disguise of adoption, restrictive of the liberty of persons, and dealt with the question of compulsory labour. This document, together with a draft convention put forward by the British representative, Lord Cecil, was referred by the Sixth Assembly to the usual Committee, which framed a general convention to deal with the whole question. This was to be circulated to states members and brought before the Assembly of the succeeding year. That body adopted the convention and requested the Council to draw up an annual report on the measures taken by the signatories to suppress slavery and slave-trading. This would ensure the continuous ventilation of the subject and the consequent education of public opinion. At the same time, the Council was asked to call the attention of the International Labour Organization to the matter of forced labour, since that question appeared to fall within its competence.

The convention (which up to the present time has been ratified by forty states) defines slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised"; the slave-trade it defines as including "all acts involved in the capture, acquisition, or disposal of a person with intent to reduce him to slavery . . . and, in general, every act of trade or transport in slaves." The signatory Powers undertake to prevent and suppress slave trading, and "to bring about, progressively, and as soon as possible, the complete abolition of slavery in all its forms"; they undertake, further, to assist one another in

achieving these objects. Finally, in view of the grave consequences which may arise from the practice, the signatories agree to restrict compulsory labour to public purposes; where it still survives for other than such purposes they undertake to end it "progressively, and as soon as possible."

The convention, though weaker in certain of its provisions than could be desired—"as soon as possible" is an unfortunate term, since every Government is its own judge as to what is possible—is clear and comprehensive; it does practically all that can be done by international agreement to suppress the evils of slavery, and it has the immense advantage of standardizing for all the signatories the definitions of what constitute slavery and slave trading. Public opinion, national and international, must do the rest. The Assembly's handling of the question throughout shows that it has recognized this and has directed its procedure to the evocation and instruction of such opinion.

One means of effecting this object has been the publication year by year since 1926 of the information received by the Secretariat from states members showing what steps they have taken to suppress slavery and slave trading. Thus the question has been kept before the public and the League. At the Tenth Assembly Lord Cecil urged that the situation revealed by these communications was unsatisfactory as regards the rate of progress shown, and proposed the revival of the Slavery Committee. With characteristic caution the Assembly preferred to continue the existing procedure for the time being, but at the meeting of 1931 a request was made to the Council to appoint a Committee of Experts to review the available information.

This body presented its report to the Council in September 1932. It drew attention to the fact that, with the possible exceptions of Tibet and parts of Central Asia, as to which no information was available, the legal status of slavery has been everywhere abolished save in Arabia. The slave trade also appeared to have diminished, and the same could be said of raiding. On the other hand, "certain kinds of social status in which men

are not in enjoyment of full civil freedom" still existed in Africa, though they tended to disappear. The report drew attention to a division of opinion between the experts as to whether such kinds of status came under the definition of slavery laid down in the 1926 Convention. The Belgian, British, Spanish, and Netherlands experts asserted that it did; the French, Italian, and Portuguese, that it did not. The Committee recommended that a special *Bureau* should be set up in the Secretariat to handle information concerning slavery, and that a permanent commission to advise the Council should be established.

This report was transmitted by the Council to the 1932 Assembly, which decided to request the Council to constitute a permanent Advisory Committee of Experts. Owing to the financial situation, however, budgetary provision for the new body will not be made till 1934, which must involve delay in the commencement of its work. For the same reason, no separate Bureau will at present be established.

The League's activities concerning slavery have undoubtedly stimulated those of individual Governments. In 1924 the Maharaja of Nepal determined to emancipate the fifty thousand slaves in his kindgom, a task which was peacefully completed before the end of 1926. In 1925 the Government of Burma undertook to liberate the slaves held by the wild tribes of the Hukawng Valley and the neighbouring hill country, and by the middle of May 1928 it was believed that this had been done.

As against this must be set the fact that emancipation seems no nearer in Abyssinia at the present time than it did in 1923, when that country was admitted to the League and undertook to endeavour to secure the complete suppression of slavery and slave trading. Certainly, the difficulties in the way of the fulfilment of this pledge are formidable; to quote Lord Lugard, "the attempt to abolish property in slaves . . . must involve a complete change in the social life of the people of Abyssinia."



Not only so, but opposition to change "comes principally from the priesthood, which considers itself the guardian of the Mosaic law and regards slavery as an institution decreed by Jehovah." The authority of the Emperor is admittedly weak, and any attempt to emancipate slaves would certainly be forcibly resisted. Nor does the evil consist only of the continuance of slavery; the countries bordering Abyssinia are continually raided from thence for the express purpose of slave catching. A solution of the problem thus created is not yet in sight.

This section would be incomplete without brief reference to the action of the League, as such, against slavery in one particular state. For years disturbing reports had been circulating as to social conditions in Liberia, and references to them had appeared in League documents. Slavery and slave trading were alleged to be rife in Liberian territory. Liberia, it may be useful to remind the reader, was founded in 1821 as a colony for emancipated negro slaves from the United States; it was first recognized as an independent state in 1847. Briefly stated, the present situation in the republic is that the descendants of the original colonists, between fifty and sixty thousand in numbers and living along the coast, rule over a very much larger aboriginal population in the hinterland.

In 1929 the Liberian Government informed the Council that as it had been "the victim of a systematically organized campaign to persuade public opinion . . . that slavery and forced labour are still rife in Liberia as a recognized social system," it had determined on the appointment of an International Inquiry Commission to investigate the charges on the spot; it requested the Council to nominate a member of the Commission, the other members to be appointed by the Governments of the United States and of Liberia itself. The Council agreed to the request, and the Commission took up its work in April 1930.

Its report, when issued, made sufficiently terrible reading; the native population in Liberia, it charged, had been sub-

jected to "gross exploitation and subjugation," "a policy of gross intimidation and suppression" had "for years been systematically fostered and encouraged." While common slavery no longer existed, domestic slavery and pawning were "still common customs." Native labour had been forcibly recruited and shipped to Fernando Po. The recasting of native policy and the complete reorganization of the administration of the interior were recommended, along with other drastic reforms.

The report was considered by the Council in 1931, along with a request by the Liberian Government for assistance from the League in carrying out the proposed reforms. As a result an expert committee was dispatched to Liberia to draw up proposals. In May 1932 the Council asked the Liberian Government whether it would accept the experts' programme—which involved, *inter alia*, the appointment by the League of a Chief Adviser to that Government. Should this offer of assistance be accepted, the League will be concerned, though indirectly, with the administration of a large African territory.

It will be remembered that the Assembly, which approved the Slavery Convention, asked that the International Labour Organization should take up the question of Forced Labour. After expert investigation, the Organization's General Conference in 1930 adopted a draft convention on the subject. This is a lengthy document, the essential points of which are: Powers adopting the convention agree (1) to suppress forced or compulsory labour in all its forms "within the shortest possible period"; (2) during the transitional period resort to forced labour may be had for public purposes only, and then under elaborate safeguards; (3) compulsory labour for private individuals or corporations must cease at once.

The date of the convention's adoption is recent; nevertheless, it is a matter for concern that up to the present time it has been ratified by nine Governments only, and that in this list

the only colonial Powers of importance whose names appear are Great Britain, Japan and Australia. In view of what has been said above, it should be noted that Liberia has ratified. But in this, as in other matters, the only remedy is to be found in the formation and direction of an enlightened world opinion; what can be directly done by existing political machinery has been done.

#### (d) HEALTH

"The members of the League will endeavour to take steps in matters of international concern for the prevention and control of disease" (Article XXIII (f) of the Covenant).

The origins of this Article need little explanation. Disease respects no frontiers, and bacteria are without a country. For ages mankind has had reason to know this from bitter experience, as the history of epidemics testifies, but only in very recent times, and as a result of modern medical science, has it become possible to take effective measures of protection. That these measures, to be effective, must extend beyond national frontiers had been realized before the World War. The International Sanitary Convention of 1903, which was concerned with the prevention of plague and cholera, imposed uniform measures upon the Governments signatory to it, and also set up a permanent International Office of Public Health in Paris. The authors of the Covenant, therefore, in this as in other matters, were simply developing and systematizing experiments begun before the League came into existence.

At its second meeting the Council summoned a conference of experts to frame a scheme of organization which would carry out the League's duties under Article XXIII (f). This body met in April 1920, and found itself confronted with an emergency of the gravest kind. War and revolution in Eastern Europe had let typhus and cholera loose, diseases which the blind movements of refugee populations threatened to spread over

the Continent as a whole. No single Government had the resources or authority to grapple with the problem thus presented. The conference, though called for quite another purpose, rose to the occasion and recommended the establishment of an Epidemics Commission to cope with the emergency. The Council accepted the proposal and the Commission did invaluable service in fighting the epidemics, both by direct measures and by co-ordinating the efforts of the Governments immediately concerned. So useful were its labours that, in 1922, when the Turkish victories in Asia Minor drove hundreds of thousands of refugees headlong to Greece, it was called in again to handle an emergency utterly beyond the powers of the Greek Government.

Meanwhile the work of constituting a permanent Health Organization for the League had been proceeding. Various difficulties arose which need not be described here; it suffices to say that by 1923 the work was completed.

The constitution of the Health Organization includes three bodies: the Health Committee, the Advisory Council, the Health Section.

The Health Committee is an expert body, and its members are all specialists in medical or public health questions. They do not represent Governments, but are chosen purely for their scientific qualifications, and may be drawn from countries outside the League. The Committee's functions are technical and include the preparation and execution of the Organization's labours, labours which will presently be described. The Advisory Council is a larger body, and its members represent Governments. To it would fall the task of framing international agreements on health questions. It receives proposals from the Committee and makes suggestions to that body when it sees reason. The Health Section is that division of the Secretariat which is concerned with health matters; it is the executive organ of the Committee.

The Organization as a whole is, of course, responsible to the

League which provides its funds. It advises the Council and Assembly when necessary and co-operates with other League organs, as, for example, the Advisory Committee on the Drug Traffic.<sup>1</sup> But its work is primarily technical in character, and the League authorities are generally content to give it as free a hand as possible to pursue its tasks.

Before turning to a brief account of certain of those tasks, a word of general explanation is necessary. The League does not exist to supersede Governments but to supplement them, to do for them all what no one of them could do for itself. This principle applies to its technical organizations. Its health body does not try to take the place of the public health administrations of the states members; this would not be possible were it even desirable. Instead, it co-ordinates their activities and supplements them by direct measures of its own when the need for them is shown to exist. Just what this means in practice will be seen more clearly as our account progresses.

The first practical expression of the League's concern for health matters took shape, as we have seen, in the work of the Epidemics Commission. The Epidemiological Service of the Organization has sprung directly from this practical experience. It takes two main forms. In the first place, the Health Section issues monthly and annual Epidemiological Reports in which are included statistical information as to infectious diseases. These publications serve a double purpose: they warn Governments of the spread of infections and they make possible the study over periods of years of the seasonal and regional distribution of particular diseases—a matter of great practical importance from a medical standpoint. This first activity of the Organization gave rise to another. In 1925, largely at the suggestion of the Japanese representative on the Committee, the Organization opened its Epidemiological Bureau at Singapore. To this comes, week by week, information from the major

<sup>1</sup> See p. 265.

Oriental ports as to outbreaks of infection, and this is co-ordinated and distributed from the Bureau to the interested authorities. In addition, weekly and even daily bulletins are regularly broadcast from a number of stations. The value of this to health authorities is obvious. In addition, the Bureau has become increasingly a centre in which medical research is organized; important work has been done in the field of antitoxins.

Closely akin to the Organization's epidemiological work is its study of sleeping-sickness in Africa. Investigations made by qualified experts in the areas affected have already led to important results and to greatly increased measures of co-operation among the colonial administrations concerned. Another expert commission has made an investigation—on a world scale—of leprosy and its treatment.

Other interesting activities of the Organization may be described more briefly. It has promoted the interchange of health officers between different countries, thus helping the spread of technical knowledge. It has handled a problem of great difficulty concerning the standardization of sera and other remedies. As is well known, sera are increasingly employed as remedies for certain diseases. Their use, however, is attended with certain dangers, for an overdose of the remedy may prove as fatal to the patient as the disease itself. But sera are produced in many different centres and there has been no common standard of potency, so that a doctor, uninformed as to the exact strength of the remedy he is using, may either obtain no results or do positive damage. The Permanent Standards Commission, set up by the Organization, has been working on this problem for some years and has already obtained valuable results. It has fixed standards for a number of sera and secured their official adoption by Governments and producers.

From time to time also the Organization has been able to render direct assistance to states members of the League. Its

experts have helped in the reorganization of the Public Health services of Greece, Bolivia, and China.

Two points of importance emerge from this excessively rapid survey. First, the reader will note how the Organization's work has extended far beyond Europe into Africa, the Pacific, and the Far East. This provides at least a partial answer to the complaints often made of the League, viz. that its activities are confined closely to Europe. Second, the general principle that lies behind all the League's work and is, indeed, the reason for its existence, is admirably illustrated by the Health Organization's activities. National Governments could not have undertaken them, for lack both of resources and the necessary authority, yet to leave them undone meant an increase in human suffering and loss. Put briefly, the moral of our survey is: In matters of health, an international authority can do what national authorities cannot even attempt, and what is true of health is true also of a vast and increasing range of social and economic problems.

## CHAPTER XVIII

### MANDATES

The Mandates System stands as an international acknowledgment that civilization must be made to mean something higher to backward races than the aims and methods of the development syndicate, or the assiduous cultivation of new wants to afford markets for European commerce.

LORD LUGARD, 1922.

THE origins of the Mandates System have been described in the third chapter of this book.<sup>1</sup> The reader need only be reminded, therefore, that as the result of proposals put forward by President Wilson, proposals which themselves developed from an idea originally suggested by General Smuts, the Peace Conference decided to place Germany's colonies and certain areas of the Turkish Empire under the administration of Allied Governments, such administration to be supervised and controlled by the League of Nations.

Provision for the executing of this decision was made in Article XXII of the Covenant. That Article both declares a principle and provides means for its translation into practice. The principle is that "the well-being and development" of the peoples of the territories in question "form a sacred trust of civilization." The means of execution are decided, in the first instance, by the fact that these peoples are "not yet able to stand by themselves under the strenuous conditions of the modern world," i.e. they cannot simply be left to govern themselves. Consequently, their "tutelage" is "entrusted to advanced nations who, by reason of their resources, their experience, or their geographical position, can best undertake this responsibility." These nations, however, are to exercise their tutelage, not as ordinary sovereigns over subjects, but 'as Mandatories on behalf of the League.' It is this last pro-

<sup>1</sup> See p. 44.



vision which marks the originality of Article XXII and initiates a unique political experiment.

The Article recognizes that the territories and peoples concerned differ widely in needs and circumstances, and that the mandates must differ accordingly. They are, consequently, divided into three groups which have become known as the "A" "B" and "C" mandates. In the first category are placed the former possessions of the Turkish Empire; it is recognized that their peoples have "reached a stage of development where their existence as independent nations can be provisionally recognized," and it is the function of the Mandatories to render "administrative advice and assistance . . . until such time as they are able to stand alone." In the second category are the Central African territories; there the Mandatories must be responsible for administration, but under such conditions as guarantee freedom of conscience and religion, the prohibition of traffic in slaves, arms, and liquor, the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police or defence purposes, equal opportunities for the trade and commerce of all League members. In the third category are South-West Africa and the former German colonies in the Pacific. These, as the result of a variety of circumstances, can "be administered under the laws of the Mandatory as integral portions of its territory," but subject to the same safeguards for native interests.

The general principles of mandatory government having thus been laid down, the Article provides for the necessary supervision of their execution by the League. The Council is to define "the degree of authority, control, or administration to be exercised by the Mandatory," if this has not been previously agreed upon by the members, in this case the Allied Powers. An annual report on its administration is to be rendered to the Council by each Mandatory; these reports are to be examined by a permanent commission, which will also advise

the Council "on all matters relating to the observance of the mandates."

The Article, as will be seen, makes no provision for the assignment of territories to particular Powers. So far as the German colonies were concerned this had been done by the Supreme Council before the Treaty of Versailles was signed. The Turkish territories were allotted to Mandatories by the principal Allied Powers at San Remo in April 1920. The terms of the individual mandates were also framed by the Allies and submitted to the Council for its approval, though this was not formally given in some cases till years after the Mandates System was functioning for all practical purposes. The main cause of this delay was the attitude of the United States, which, though not a signatory of the Peace Treaties, insisted on its rights as an "Associated" Power being considered in the drafting of the mandates.

The distribution of the mandates is shown in the following table:

#### "A" MANDATES

|                           |    |    |    |    |    |               |
|---------------------------|----|----|----|----|----|---------------|
| Iraq                      | .. | .. | .. | .. | .. | Great Britain |
| Palestine and Transjordan |    |    |    | .. | .. | Great Britain |
| Syria and Lebanon         |    |    | .. | .. | .. | France        |

#### "B" MANDATES

|               |    |    |    |    |    |                          |
|---------------|----|----|----|----|----|--------------------------|
| Tanganyika    | .. | .. | .. | .. | .. | Great Britain            |
| Ruanda-Urundi | .. | .. | .. | .. | .. | Belgium                  |
| Cameroons     | .. | .. | .. | .. | .. | France and Great Britain |
| Togo          | .. | .. | .. | .. | .. | France and Great Britain |

#### "C" MANDATES

|                       |    |    |    |    |    |  |
|-----------------------|----|----|----|----|----|--|
| South-West Africa     | .. | .. | .. | .. | .. | South Africa                                 |
| New Guinea            | .. | .. | .. | .. | .. | Australia                                    |
| Samoa                 | .. | .. | .. | .. | .. | New Zealand                                  |
| Nauru                 | .. | .. | .. | .. | .. | Great Britain, Australia,<br>and New Zealand |
| North Pacific Islands | .. | .. | .. | .. | .. | Japan  |

A few explanations must be added to this list. It must be noted in the first place that no formal mandate for Iraq was ever

framed; its place was taken by a treaty, signed in 1922, between the British Government and Iraq. By this agreement Britain promised to afford Iraq "such advice and assistance as may be required . . . without prejudice to her national sovereignty." Clauses were inserted to secure that the provisions of Article XXII were carried out by the Iraqi Government, advised by the British representative. Great Britain undertook to secure the admission of Iraq to the League as soon as possible. This treaty was communicated by the British Government, which undertook to observe the obligations of a Mandatory so far as the furnishing of reports, etc., was concerned, and the Council accepted this arrangement. It has been criticized as involving a departure from the strict letter of Article XXII, and this can scarcely be denied. What is more important, however, is that the spirit of the Article was better expressed by the treaty than would have been the case if a formal mandate had been insisted upon; that would certainly have been resented by the population and have caused friction between it and the Mandatory.<sup>1</sup> In the mandate for Palestine is included a clause whereby the Mandatory is made responsible for organizing such conditions "as will secure the establishment of the Jewish National Home." This provision was inserted as the result of pledges given by the Allies during the war. So far as the "B"

<sup>1</sup> The connection of Iraq with the Mandates System is now ended. In 1929, the British Government notified the Council that it intended to recommend Iraq for admission to the League in 1932. The Mandates Commission inquired into the matter at the Council's request and was able to place information before that body which led it in January 1932 to declare itself ready, "in principle," to terminate the mandatory régime in Iraq when that state should have entered into undertakings—suggested by the Commission—designed to secure the protection of minorities, freedom of conscience, safeguards for foreigners in the judicial sphere, respect for international conventions, and the concession to members of the League, subject to reciprocity, of most-favoured-nation treatment. A declaration to be signed by Iraq embodying these principles was accordingly drawn up, was accepted by its Government in July 1932, and, as has already been noted, Iraq was made a member of the League at the 1932 Assembly.

mandates are concerned, it should be noted that Togoland and the Cameroons were divided between France and Great Britain by agreement between those Powers, while Tanganyika and Ruanda-Urundi were carved out of the old German East Africa. Of the "C" mandates the only one which calls for comment is Nauru; though assigned jointly to Great Britain, Australia, and New Zealand, the actual administration has been confided by agreement to Australia.

The essential principles of the Mandates System have now been made clear; it remains to consider its working in detail.

The pivot on which the whole system turns is the Permanent Commission; an understanding of its structure and functions is essential to the understanding of the system itself.

Article XXII is silent as to the structure of the Commission; the Council was therefore obliged to undertake the task of organizing it. There was considerable diversity of ideas on the subject, but finally, on December 1, 1920, a constitution for the Commission was approved which has remained unaltered in all essentials. The Commission was to consist of nine members, the majority of whom were to be nationals of non-mandatory states. They were to be selected by the Council on grounds of personal merit and competence. To secure the independence of the Commission they were not to hold any office which might place them in dependence on their Governments. This was obviously most important, for the members, if they were to perform their duties properly and if their advice was to carry weight, could not be delegates of Governments, bound to reflect official views. The Commission has been enlarged in course of time. M. Rappard, the first Director of the Mandates Section of the Secretariat, when he retired from that office in 1925, was added to the Commission as an extraordinary member, and when, in 1927, Germany entered the League, a German member was appointed. From the outset an official of the International Labour Organization has sat on the Commission in an advisory capacity. The Council has

consistently acted on a suggestion of the First Assembly that one member should be a woman.

The states represented on the Commission at various times have been as follows :

*Mandatories*

Belgium  
France  
Great Britain  
Japan

*Non-Mandatories*

Germany  
Holland  
Italy  
Norway  
Portugal  
Spain  
Sweden  
Switzerland

As will be seen, most of the non-Mandatories represented are Colonial Powers. The majority of the members have been actively engaged in diplomacy or colonial administration. Thus, the British member, Lord Lugard, has vast experience in governing African territories ; M. Merlin is a former Governor-General of French Indo-China ; Mynheer Van Rees was vice-president of the Council of the Dutch East Indies ; the Marquis Theodoli, chairman of the Commission since its origin, was a Secretary of State in the Italian Colonial Ministry. Nothing could be farther from the truth than the idea, often encountered, that the Commission is a collection of "cranks" and "theorists."

The Commission's method of work is largely decided by its constitution. The annual reports which the Covenant requires Mandatories to furnish are transmitted to the Commission, which examines them in the presence of duly authorized representatives of the Mandatories. These discussions, which are very thorough, serve a double purpose. They enable the members to elicit additional information, clear up obscure points, and grasp thoroughly the policy of the administrators of the territory reviewed. On the other hand, they enable the Commission, by criticism or direct suggestion, to influence the activities of the Mandatory. After the examination of the reports the Commission makes observations on them for the

information of the Council. These observations are in turn submitted to the representatives of the Mandatories, who make such comments on them as appear necessary.

In examining the reports and formulating its observations, the Commission has the assistance of the Mandates Section of the Secretariat. Its chief acts as secretary to the Commission and takes an active part in its work. Between the two meetings which are held every year in Geneva the Section supplies the members with the information it regularly collects on the various problems of the mandated territories. This information is of the greatest value in the examination of the reports, and in order to use it to the best advantage as well as to ensure thorough criticism, there is an informal division of labour between the members, each tending to specialize in some department of administration. Thus, the women members, Mme Bugge-Wicksell and her successor, Mlle Dannevig, have taken education in the mandated areas as their special concern.

The observations of the Commission on the work of the Mandatories are framed in cautious and diplomatic language. Nevertheless, there has been no shirking of responsibility. The Commission has not failed to use plain speech when necessary or to call attention to breaches of the mandates. The restiveness displayed at times by some of the Mandatories disposes of any suggestion that the Commission exists merely to administer soothing syrup to public opinion. Considered as a body of critics the Commission has shown itself cautious but thorough. Criticism, however, is not its only function. As the Secretary-General remarked when it was in process of formation, "it should be able to co-operate positively in all matters concerning the progress and well-being of the populations placed under mandates." This it has done. At times it has made positive suggestions to Mandatories, as, for example, when it urged a rectification of the boundaries between Tanganyika and Ruanda-Urundi—a suggestion which was adopted, to the satisfaction and advantage of the populations concerned. But

this is not all. No one speaks with more authority on the Commission's work than M. Rappard; he has taken part in it both as secretary and as member, and his testimony is as precise as clear. "The colonial administrators," he writes, "have come to appreciate the opportunity of discussing their difficulties in the friendly and stimulating atmosphere of a Commission containing experienced colleagues of various nationalities. Far from feeling that they were cross-examined as culprits or even as witnesses in a criminal trial, they were not long in discovering, possibly to the surprise of some of them, that they were considered as associates in a great novel enterprise of international co-operation for the amelioration of colonial conditions." The establishment of such relations with the practical administrators is at once a measure of the Commission's success and a pledge of its future achievements.

From the consideration of the Permanent Commission's activities it is a natural transition to turn to those of the Council. These do not need lengthy description for, in general, the Council has acted on the advice of M. Branting, who said, in 1923, "I believe that it would be wise to carry out its (the Commission's) recommendations whenever political considerations . . . do not render such a course impossible." The Commission's reports are regularly brought before the Council by a *rapporteur* who proposes one or more resolutions for its acceptance. These almost always instruct the President to transmit the Commission's recommendations to the Mandatory Powers with a courteous request that they may be carried out. On occasion, special attention is drawn to particular recommendations. It is fair to say that, in general, the Council has endorsed and supported the activities of its advisers. Nevertheless, friction has sometimes arisen. Some years ago the representatives of Mandatory Powers on the Council, led by Sir Austen Chamberlain, professed considerable alarm at the tendency they thought they perceived for the Commission to go beyond its province, and, as Sir Austen said, "to extend

its authority where the Government would no longer be vested in the Mandatory Power but in the Mandates Commission." To expect so novel a political experiment as the Mandates System to work entirely without friction would be excessively optimistic, and, in any event, no difficulty of this sort has arisen in recent years, though there is no reason to suppose that the Commission has altered its general policy.

While Article XXII does not refer to the Assembly, that body has, from the first, concerned itself with mandates, and has discussed them at all its regular sessions. The Sixth Committee has regularly dealt with them, along with other political questions, and has proposed resolutions for the Assembly's adoption. These have been addressed to the Mandatory Powers, to the Council, and to the Permanent Commission itself. In the League's early days these activities aroused a certain jealousy in the minds of Council members, who showed a disposition to regard mandates as a matter reserved for their own consideration. The Assembly, however, taking its stand on Article III of the Covenant, which permits it to deal "with any matter within the sphere of action of the League," insisted on discussing mandates questions. Greater experience of working the League's machinery has dissipated these jealousies; the Council has done its best to give effect to the Assembly's resolution, and the Commission has always taken cognisance of them. In this, as in other matters, it may be said that the Assembly's most useful work has been done in mobilizing world opinion. In some of its discussions Mandatories have had the unpleasant experience of hearing their policies and actions criticized with vigour, an experience no Government enjoys, and the knowledge that such incidents may always recur is a strong incentive to the faithful observance of the spirit of the mandates.

What conclusions may be drawn as to the value of the system as a whole? It has, to begin with, the inherent advantage that it secures an "open door" for the commerce of all League



members (and of the United States) in most of the mandated areas. This limits to some extent the range of action of competing economic imperialisms which have been, and are, such a menace to world peace. More important still, it fixes a standard in colonial administration which tends, inevitably, to be applied to territories beyond its scope. It is difficult for the same Government to defend a policy in, say, Kenya, which it is debarred from applying in Tanganyika. Colonial questions have thus become matters of international concern, and Powers can no longer shelter behind their independent sovereignty when challenged to give an account of their stewardship. Here, as elsewhere, publicity is a valuable weapon on the side of righteousness. All this is not to say that no mistakes have been made or all evils prevented. Conflicts, more or less serious, have occurred between the Mandatories and the native populations in Syria, Samoa, and South-West Africa. There was a terrible Arab attack on the Jews in Palestine. What is new and valuable in the Mandates System is that the Governments concerned have had to justify themselves—or endeavour to do so—before an expert body and before world public opinion as expressed in the Council and the Assembly.

So far as the working of the League's machinery is concerned, little criticism seems necessary. The Permanent Commission has thoroughly justified its existence, has been, indeed, one of the most successful of the League's creations. If it has erred at all, it has erred on the side of caution, and the same may be said of the Council. What has been said of the utility of the Assembly's discussions need not be repeated. On the whole matter it is difficult to improve on the judgment expressed by an authority previously quoted. "The administration of the institution of mandates I look upon as the most successful achievement of the League to execute the Peace Treaties. Of course, it is as yet too early to pass final sentence on this experiment. . . . History alone can decide, and posterity will have a fair means of recognizing its decisions."

## CHAPTER XIX

### INTELLECTUAL CO-OPERATION

The League in the first generation of its history is like a building in which work is being carried on on the first floor amidst a forest of scaffold-poles whilst labourers are still engaged in patiently laying its foundations.

PROFESSOR ALFRED ZIMMERN, 1932

IN the preceding chapters it has been seen how nations have gradually learnt to use the League machinery for an increasing number of practical purposes. Such work inevitably produces amongst those whom it affects a recognition of a common interest and a common purpose. Yet the great mass of people in all countries still feels itself separate from those in other political divisions and tends to view the actions of foreigners with suspicion and distrust. One of the great problems of the present time, therefore, is how to create in all peoples an understanding of the attitude of other countries. For this purpose not only the material interests, but also the culture and intellectual life of the different countries must be brought into contact. Education must have a sufficiently wide outlook to undermine a narrow patriotism which can only find satisfaction in opposition. Co-operation between nations instead of antagonism must become the normal and accepted view of international relations.

In one sense, of course, intellectual society had always been more international than any other kind. Scholars and scientists have always been conscious that their knowledge is derived from men working in many different countries. Great literature, art, and music have always transcended the boundaries of nations. Men interested in intellectual or artistic pursuits necessarily have their attention directed towards the productions of "foreigners," and in many cases actually come into contact with them. Yet, as was only too obviously proved during the

Great War, they can also be imbued with an obtuse patriotism even more stubborn than that of less trained and instructed minds, and at the close of it there was a greater gulf between the intellectuals of the warring nations than between any other class in the community.

Before the war there were many organizations through which scholars and scientists met to discuss their common interests. Each separate study tended to have some kind of international machinery. The two principal bodies were, however, the International Research Institute, which was the central organ for the scientific societies and International Union of Academies in which the other learned societies were combined. The war split both these bodies asunder, and after it there was an attempt made to prevent the German and Austrian societies from taking part in them on equal terms. The same state of affairs existed in many other international academic organizations.

The most ambitious attempt before the war to create a world academic centre was at Brussels where MM. Lafontaine and Ottlet had established an International Index of Bibliography, an International Library, and even an International Museum. These institutions were regarded by scholars with a certain indifference as being too vague and ambitious, it being impossible to co-ordinate all the various activities of intellectual life in this way. Nevertheless, the Union of International Associations was founded at Brussels which held its first meeting in 1910, and there was much to be said for making a common centre for such bodies and finding accommodation for their offices.

It was naturally, therefore, from Belgium that there came the first proposal for an International Committee on Intellectual Relations which was made during the drafting of the Covenant, but was ignored by other states. It was M. Lafontaine who brought the matter before the First Assembly, and at the Second Assembly Professor Gilbert Murray, as *rapporteur* of the Fifth

Committee, proposed that a Committee of Intellectual Co-operation should be set up. The Committee of twelve (subsequently raised to seventeen) members was appointed by the Council on May 15, 1922. They included some of the finest academic minds of the world, with Professor Bergson as their Chairman, Professor Gilbert Murray as their Vice-President, Mme. Curie, Professor Millikan, and other famous personalities as members. Professor Einstein was amongst those who subsequently accepted membership. Such names gave immediately high prestige to the Committee, but it may be questioned whether such eminent persons are the most suitable to act as an organizing body. Moreover, the exact aims of the Committee were only vaguely determined, and it had practically no funds with which to carry out its work. Though the League had called it into being it was not prepared to supply these, and indeed some members, especially the British, regarded it as an unnecessary and rather futile body. For some time it seemed as if this judgment was well founded.

In 1924 the French Government offered to create at Paris an Institute of Intellectual Co-operation to assist the Committee in its work. France spends annually large sums in spreading French culture throughout the world, not only because it believes in France's intellectual mission, but also because it thus extends French influence over an important opinion-forming class. That it was now ready to assist international work of a similar kind was a significant departure, but since the seat of the new Institute was to be at Paris and not at Geneva, a national object was also suspected, and there was a good deal of opposition. But no alternative presented itself, and, largely through the influence of Professor Gilbert Murray, the offer was accepted. The Institute was to be under the control of the Committee of Intellectual Co-operation and act as its secretariat for most of its activities, though a residuum was still left in the hands of the Geneva officials. The French have thus provided not only an office in the *Palais Royal*, but the great proportion

of the funds for the work of intellectual co-operation, though some other Governments have made subscriptions to it on a small scale.

The example of France was followed, in a somewhat different manner, by Italy, who in 1928 set up at Rome an International Educational Cinematographic Institute which is also partially under the control of the Committee, through a governing body on which it has large representation. It published an *International Review*, and has begun a systematic study of its subject, the fruits of which have yet to appear. There have also been instituted national Committees of Intellectual Co-operation in thirty-nine countries, which have, however, not yet, for the most part, found out exactly what functions they are to perform.<sup>1</sup>

The field of intellectual life is so wide that an embarrassing number of possibilities lay before the Committee. Proposals of all kinds were made, and many of these were adopted without much thought of their practicability or inquiry into the best methods of carrying them into effect. The Institute, anxious to justify its existence, plunged into all kinds of ambitious projects, some of which it had not the resources to carry out, while for others it was hardly the most suitable body to initiate work, which needed for its success the combined efforts of scholars and savants all over the world. These naturally placed more faith in their own organizations, and were more cognisant of the labour and expenditure required to perform in an adequate manner the tasks upon which the Institute so lightly embarked. Thus many of the projects either failed completely or produced such small results as failed to compensate for the efforts made. There was, for example, an attempt to create International Bibliographies, which not only duplicated the project at Brussels, but also the efforts of other learned bodies far more capable for the work. The publication of a yearly list of the best books

<sup>1</sup> They seem likely to be of real use in the difficult question of the revision of school text-books.

in all countries lent itself to the criticism that nobody was capable of making such a selection. A proposal of Senator Ruffini to secure financial benefit to scientific inventors was eventually discarded after much discussion as liable to introduce false standards into scientific work. An inquiry into authors' rights did not produce much substantial result. A discussion in which the British Poet Laureate and M. Paul Valéry took part in 1930 on the use of great poetry, if properly delivered, in binding nations together, is hardly likely to produce much effect on international relations.

But in some fields the Committee found work in which it can play a rôle of great importance. Its inquiry into the conditions of intellectual workers in Central and South-Eastern Europe stimulated at a most critical time the movement to assist them which had already been begun by private bodies. But most important has been the work of inquiry into the attitude of the educational authorities of the states on the instruction of the youth of the world in international co-operation, and, in particular, in knowledge of the League of Nations itself. This movement was the result of a resolution passed by the 1923 Assembly on the proposal of Dame Edith Lyttelton. It was later placed under the control of the Committee, which set up a Sub-Committee of Experts to consider it. The result has been to obtain much information of the system of education of the various countries, and to stimulate their Governments to make further provision for such teaching, which was sorely needed.<sup>1</sup> An *Educational Survey*, already quite a useful publi-

<sup>1</sup> The result is shortly described in the *Memorandum on Moral Disarmament* forwarded to the Disarmament Conference as follows: "According to reports which have reached the League Secretariat, thirty-three states have taken steps to introduce instruction in regard to the League into the curricula of primary and secondary schools. In certain countries lectures and special courses have also been instituted in higher educational establishments. Twenty-three Governments have dealt with the recommendations of the Sub-Committee of Experts in ministerial notes or special communications in their official journals and have encouraged the publication of special manuals and

cation, has been circulated, and an account of the League, for the use of teachers, published in many languages. An inquiry into historical text-books has taken into account the work of other bodies and has made recommendations for Government action.

Some good work has been done in bringing together the many students' organizations, and endeavouring to induce them to combine for common objects, and in inquiring into the possibilities of the exchange of students and professors between different countries. Inquiries have also been made in the use of the cinema and broadcasting, and in the training of teachers for instruction on international co-operation. An Annual Conference of Institutes for the Scientific Study of International Relations has met since 1928.

It is clear, therefore, that a work of great importance has been begun, which could hardly have been carried into effect by any other international organization. In other matters, such as great libraries, archives, and museums, where Governments are the principal factor, the Committee has played a useful part which may well increase in the future. It has now seven permanent committees, of whom most deal with matters of this kind, and on which approximately 150 experts serve. It has begun the publication of new journals, such as *Museion* and the *Index Translationum*, which appear to fill real needs. It was also a convenient instrument to appoint the Committee of Educationists which advised the Chinese Government.

works dealing with the League and international co-operation. Nineteen Governments have taken active steps to promote the revision of school text-books in order to adapt them to modern ideas on international relations. Twenty-one states grant special facilities to students, boy scouts, young people, and children travelling in groups. Fourteen states directly encourage in some form or other the interchange of school children and students. Lastly, three Governments have convened national conferences of teachers with a view to adopting the recommendations of the Sub-Committee of Experts to the special needs of their country." These statistics must not, of course, be taken at their face value. In some cases the action has been merely nominal. But they are an indication of new habits of mind

There had, however, been great criticism of the Institute, and in 1929 a Committee of Inquiry was appointed to consider the whole work of the Committee, which was discussed in the 1930 Assembly. As a result its functions were more closely defined, and the staff of the Institute reduced and a new Director appointed.

The experience of ten years has shown that the Committee has a useful sphere of operations where the action of Governments is in question, as in the encouragement of educational authorities to pay due regard to international affairs. But in most matters of art, literature, and music, its rôle must be a very circumscribed one. Scholars and scientists co-operate with one another most successfully through their own organizations, which they can best adapt to their special needs without the assistance of extraneous administrative bodies. There may be occasions on which the Committee can assist men of different nations to come together for the discussion of mutual problems, but its work should stop there and it should then leave the field to those most concerned. Co-operation in intellectual life between the different nations is not a process which can be planned by a committee or administrative officials. It depends on the growth of culture and habits of mind in numbers of different people which are the result of a large number of different circumstances which no committee, however learned, can estimate or control. The International Union of Academies and the International Research Council have now been brought to a better outlook, and though the bridge between Germany and the Allied organizations has not been completely built, the gap is now a small one and has been covered in most of the separate studies represented in the Academies. It is through such intercourse that great international projects of publication, bibliography, and other essential aids to learning should be attempted. The Committee and the Institute can then concentrate on the special tasks for which they are suited.





# CONCLUSION



## CHAPTER XX

### THE GREAT EXPERIMENT

One of the most fertile sources of error in modern political thinking consists, indeed, in the ascription to collective habit of that comparative permanence which only belongs to biological inheritance.

GRAHAM WALLAS, *Human Nature in Politics*

THE main purpose of this book will have remained unfulfilled if we have not left an impression of the great range of the activities of the new system. To a far greater degree than even the boldest thinkers contemplated in 1919 the League has reached out into almost every field of human effort. Conceived primarily as a compact to maintain the peace, it has been used as an active agency of international co-operation in a world in which the need for such a body is growing at an ever-increasing pace.

Some of this activity has, no doubt, been artificial—the creation of the system itself as it sought expression, a means of advertisement for Secretariat or delegates. But by far the greater part has been due to a response to a call which could not be ignored. Some of those most attached to the League have tried to slow down the pace so as to give it time to accumulate experience before it essayed new tasks. But the demand has been too urgent, and in the economic, financial, social, humanitarian, and even intellectual spheres the League has been forced to supply new experiments and ideas. Had it not existed, these problems would have necessitated some form of international co-operation, and who can doubt that the system of permanent conference, with its subsidiary conferences, committees, and councils all linked together by the permanent secretariat and scientific documentation, is by far the best method by which they could be tackled?

On the political side also the League has had more work

thrown upon it than seemed likely when it was first made. The greatest problems have been gradually brought into its machinery. It is superimposed on the old diplomatic system which at first sought to insulate it, but gradually paid to it increasing attention and began to use it for its own purposes. This process has both increased the reality and revealed the limitations of the system. It has taught many enthusiasts that there is no easy panacea by which problems in which centuries of history have accumulated can be settled by a mysterious process known as "the League." But it has also shown that it provides the only method known to mankind by which these problems can be treated with any hope of success. Statesmen of all countries have looked to it at moments of crisis, and public opinion has been enlightened and concentrated by the process of scientific inquiry and open discussion in a manner unknown at any other period of the world's history. Impatience at its limitations has brought into the world many new schemes to increase its power and efficiency, and some of these, as we have seen, have been adopted with success. But the more ambitious still wait on the creation of a more intense and enlightened demand and the main features of the system set up at Paris still subsist in full force.

The task has been all the more difficult because of the rapid changes of the post-war years. The political and economic structures were strained and dislocated by the war. Changes which would otherwise have come more slowly reached fruition almost before mankind was aware they existed. New weapons were placed in the hands of the enemies of society which increased their capacity for evil. Society had to adopt new devices if it was to save itself from destruction by the new power which it was itself creating. In this struggle the League has been the principal agency. Had it been used as wisely in the economic problems which have afflicted the world there would have been less misery and distress at the present day.

It has also mitigated some of the difficulties caused by the failure of the Peace Treaties to pay sufficient regard to the interests and emotions of the defeated countries. It is obvious that any successful revision of the most pressing of these can only be accomplished by its means. On finding a way by these methods of conference and discussion to some compromise between the victors and vanquished of the last war depends the future of civilization.

Change in personnel of statesmen has been as rapid as in other matters. Only in Italy and Russia, where a new autocracy has been set up, has there been a permanence such as the old autocracies and aristocracies gave in a Metternich, a Nesselrode, or a Bismarck. The democracies have changed their Governments so frequently that new men have continually had to take up the task of forging the new instrument. It has made it far more difficult. How important a growth of friendship between the Foreign Ministers of the three European democracies could be was seen in the "Locarno period," when the League made its greatest advance in the political sphere. Could M. Briand, Herr Stresemann, and Sir Austen Chamberlain have worked together for another three or four years with unimpaired health and the confidence of their Parliaments, what great advances might have been made! M. Briand, indeed, remained for a longer period, but his power and prestige gradually diminished.

Fortunately, the system has possessed the services of some of the statesmen of the smaller Powers continually since its inception. The influence of men like MM. Beneš, Hymans, Politis, and Motta lies in the fact that they have a far greater experience than their colleagues of the Great Powers. The official delegate of France, M. Massigli, has bridged over the changes in the French Government; Lord Cecil has performed a similar service for British statesmen. Through these men much has been preserved that would otherwise have been lost, but they cannot, of course, take the responsibility for that

action by the Great Powers on which the progress of the League must ultimately depend.

There has thus been left an impression of the instability of the League which is part of the instability of the age. This was increased by the efforts to change its constitution. The withdrawal of the United States disturbed the balance which had been struck at Paris and made many states regard their responsibilities with a new outlook. The feeling of security which the League was designed to give was impaired at the outset, and the psychological effect on the minds of statesmen and peoples can hardly be exaggerated. We have surveyed the efforts made to draw closer the bonds between members in order to repair the rift in the system. They all inevitably failed until the Locarno Treaties brought a new atmosphere in Europe and the Kellogg Pact indicated a new attitude of responsibility on the part of the United States. The political results of the economic and financial depression, especially its disastrous effects on the new German democracy, again intensified the atmosphere of insecurity, and it has been increased by events in the Far East. It remains to be seen whether the present sufferings will bring mankind together in a common effort, or drive them farther along the road of political and economic nationalism.

The destiny of the League lies mainly in the hands of the Great Powers of Europe. Of these, France and Great Britain have now given reiterated pledges of their loyalty to it—provided the system accepts their point of view. They have even shown some signs of beginning to understand the point of view of each other, and in this new attitude lies one of the greatest hopes of advance. Italy has changed from the position of a rather cynical observer to that of an active participant. She found that she could not afford to allow France an unchallenged lead. If she has sought strength in associating herself with those Powers who stand for revision of the territorial system, she has yet tried through the League to solve some of the diffi-

culties that keep her and France apart. Germany only accepted the League as an instrument of revision, and she has judged it by what it has accomplished in that direction. Her entry made more easy the process of getting rid of the dead weight of Reparations, the removal of the army of occupation, and the restoration of her equality of status in armaments. These are only a prelude to other demands which include territorial and colonial changes and challenge three Great Powers of continental Europe as well as the Succession states. Yet she is so weak when left to stand alone, both politically and economically, that it is difficult to see how she can renounce the League system unless she accepts that of Communism. Even that system has come nearer the League, for Russia, while continuing to deride and condemn it in her Press and the speeches of her statesmen, has worked with it in some of its greatest problems since 1927. The United States has also drawn year by year closer to Geneva. It has been represented at most of its conferences on non-political questions with the full approval of public opinion. Above all, it has co-operated wholeheartedly in its disarmament work, the most "political" of all, and in the Manchurian crisis laid down principles with regard to neutrality and conference which should make co-operation between it and the League far more easy in the future.

The constitution of the League has only recognized the special position of the Great Powers by giving them a permanent seat on the Council. This, it is true, gives them a vote on international action. But it is now shared with nine others, of whom two are semi-permanent members, while other groups are always represented. Their power is, therefore, in theory a good deal diluted, and there have been tendencies discernible that some of their statesmen preferred informal conferences composed only of the Great Powers to discuss intimate political questions rather than the more formal procedure of the League with its extended membership. The reparations question was, of course, always in the hands



of such a conference. But such a system has been received with suspicion by the rest of the world; it has always to meet the old difficulties of the nineteenth-century conference of the place and agenda of the meetings; and it can always be blocked if it seems less convenient or advantageous to one of the Great Powers, as it often is. Thus it has as yet made but little inroad into the League system, and the private conversations which the ordinary meetings make possible between the principal statesmen seem sufficient for their main purposes. Anything which tended to substitute for the permanent and systematic meetings of the League's organs something which depended on mere personal wishes and connections would be a retrograde step in world affairs. Once the difficulty of United States' collaboration is overcome, as it has been to a certain extent recently, the Council and Assembly have proved sufficiently elastic to adapt themselves to the needs of shifting political situations.

The medium and small Powers of Europe are most of them more disposed to rely on the League than the Great. They have an influence on affairs which they could obtain in no other way. They prefer to seek protection through an organized system rather than by precarious alliances. But they are no more disposed to take risks for it than the Great. Their attitude has, however, been one of the great supporting factors in the creation of a public opinion favourable to the League. This disposition has not yet extended so far in the other continents where considerations of prestige and personal objectives have played more part.

The new system is, therefore, still in an experimental stage, whose final end cannot yet be determined with any confidence. Its great strength lies in the fact that there is no real alternative. The world is gradually discovering that it must provide itself with machinery for international co-operation if civilization is to survive. It has not yet learnt to place sufficient confidence in the new system to abandon its old habits which are supported

by vested interests deeply rooted in history. But even these are realizing that they cannot survive for long in the twentieth-century world without some form of international co-operation. There is always the alternative of Communism before their eyes, and, though Communism, even if it was adopted by many countries, would not solve the problems of national rivalry, it acts as a stimulus to the rest of the world to seek a solution. That such a solution is difficult to find lies in the nature of things. It can only be discovered when men have learnt restraint and compromise. There is no need to imagine that human nature needs to be radically changed. It has learnt the same restraint in creating the machinery of the state and economic life. The same enlightened selfishness is all that is required for international affairs. If the rapid pace and ever-increasing complication of modern civilization make the task more difficult, they also supply the scientific inventions and methods by which it can be successfully attempted.

The final word lies, therefore, with education. The national movements which transformed the nineteenth-century world were largely the result of teaching a particular attitude towards the new forces which economic change brought into existence. New emotions were created in men who had new means of expression and new methods of living. In the same way, a new attitude can be taught to the multitudes which are faced with rapidly changing conditions of life. The process can be done more rapidly because of the increase in the power of transmitting knowledge and ideas. But it cannot, of course, be done in a moment. Men's habits and emotions can only be slowly changed to suit their environment, and the old shibboleths retain great power even when it is clear to ordered thought that they are no longer valid. But just as the deep-rooted loyalties to Church, state, family, and local community were transformed by the national idea, so in their turn national loyalties can be made to accommodate themselves to an international outlook. Men in different countries have learnt to co-operate in a multi-

tude of different ways. They have only to carry the process a stage farther to remove many of the problems which now seem insoluble.

For this process such system as the League is indispensable. Through it the necessary experience can be obtained and the appropriate machinery can be created. It serves as a centre in which all who refuse to despair and have anything to contribute can meet and strengthen each other. For those who are the political agents of their peoples it is the only meeting-place where they can discuss their problems with the hope that the process will be continuous and scientifically organized. For contacts between the technical experts whose problems compel international co-operation it is now the normal agency of human activity. It remains to be seen whether there is sufficient courage, intelligence, and energy in the world to make it sufficiently effective in other spheres before it is too late.

## SUGGESTIONS FOR FURTHER STUDY

THERE are a large number of books on the League, but most of them are now out of date. Those noted here are recent publications or contain information not found elsewhere. Books in foreign languages are only rarely included. There is a bibliography in the official publication, *Ten Years of World Co-operation* (1930), and the League publishes lists of additions to its library. The League documents are now available in many public libraries. The *Official Journal* gives the record of the year month by month, including the Minutes of the Council and the Reports sent to it. The Assembly Records are published separately each year. The *Monthly Summary* gives an abridged record of all League activities. The agents for Great Britain are George Allen & Unwin Ltd., 40 Museum Street, London, W.C.1.

The only two systematic surveys are *Die Satzung des Völkerbundes*, by W. Schücking and H. Wehberg, 3 vols. (Berlin, 2nd edn., 1924, 3rd edn., 1931- ), and *Commentaire du Pacte de la Société des Nations*, by Jean Ray (Paris, 1930, with yearly supplements). The official *Ten Years of World Co-operation* is most useful on the non-political activities (see p. 102). Pamphlets on various subjects are also issued by the Information Department. Professor Rappard's *International Relations as viewed from Geneva* (New Haven, 1925) is the best short account of the League as a working machine, but is now out of date. Felix Morley's *The Society of Nations* (London, 1932) is the most recent book on the machinery of the League. There are many valuable essays in the series *Problems of Peace* (Oxford, 1927- ) and in the pamphlets of the World Peace Foundation (Boston) and International Conciliation (Monthly) (Carnegie Endowment for International Peace).

More recondite articles are to be found in the *British Year Book of International Law* (London, yearly). The best short account of the subject from a legal point of view is Professor J. L. Brierley's *The Law of Nations* (Oxford, 1928). Professor A. J. Toynbee's *Survey of International Affairs*, issued yearly by the Royal Institute of International Affairs, gives admirable accounts of the subject, while many key documents are to be found in *Documents on International Affairs*, edited by J. W. Wheeler-Bennett, published under the same auspices.

CHAPTER I.—Historical books are too numerous to give, but the following special studies may be mentioned. Sir G. Butler and S. Maccoby, *The Development of International Law* (London, 1928). A. C. F. Beales, *The History of Peace, a Short Account of the Organized Movements for International Peace* (London, 1931). Sir E. Satow, *A Guide to Diplomatic Practice* (3rd edn., 1 vol.,

1932). C. K. Webster, *The European Alliance, 1815-1822* (Calcutta, 1929). C. Dupuis, *Le Principe d'Equilibre et le Concert Européen* (Paris, 1909).

CHAPTER II.—P. Munch, *Les origines et l'œuvre de la Société des Nations*, 2 vols. (Copenhagen, 1923-24). L. S. Woolf, *International Government* (London, 1916). *The Development of the League of Nations Idea*, by Theodore Marburg and J. H. Latané, 2 vols. (New York, 1932).

CHAPTER III.—D. H. Miller's *The Drafting of the Covenant*, 2 vols. (New York and London, 1928), will always be a main source of the subject. It is a model of its kind. H. W. V. Temperley's (ed.) *A History of the Peace Conference of Paris*, 6 vols. (London, 1920-24), is also indispensable. Ray Stannard Baker's *Woodrow Wilson and the World Settlement*, 3 vols. (London and New York), contains many documents and its errors are exposed and the information supplemented in C. Seymour's *The Intimate Papers of Colonel House*, 4 vols. (London and New York, 1926-28).

CHAPTER IV.—Lilian M. Friedlander, *The Admission of States to the League of Nations* (B.Y.B. of I.L., 1928). Professor W. Rappard, *Uniting Europe* (New Haven, 1930).

CHAPTER V.—B. Gerig, *The Assembly and the League of Nations: Its Organization, Character, and Competence* (Geneva, Sept. 1930), Vol. I, No. 6, published by the Geneva Research Centre, and of the general books noted above, especially Felix Morley, *Society of Nations*. Vivid contemporary descriptions by H. Wilson Harris, *Geneva*, 1921, etc., are issued each year by the League of Nations Union.

CHAPTER VI.—The *Report of the Committee on the Composition of the Council* (C.299. M.139. 1926. V) is indispensable. The best objective account of the 1926 crisis is in the *Survey of International Affairs*, 1926.

CHAPTER VII.—The Reports of the "Committee of Thirteen" should be read (Documents A.16. 1930 and A.8. 1931. X). There is much information not otherwise available, but not altogether objective in C. Howard Ellis, *The Origin, Structure, and Working of the League of Nations* (London, 1928), and Felix Morley, *Society of Nations*. See also *The League Year-Book*, by Judith Jackson and Stephen King-Hall (London, 1932).

CHAPTER VIII.—The best book is A. P. Fachiri's *The Permanent Court of International Justice* (London, 1925). The most recent is Edward Lindsey's *The International Court* (New York, 1931). The summaries (issued by the World Peace Foundation) by Professor Manley O. Hudson give the essential documents with a commentary by the leading American authority. The same Foundation published Philip C. Jessup's *The United States and the World Court* (1929). See also *Information on the World Court*, by J. W. Wheeler-Bennett and Maurice Fanshawe (London, 1929). The publications of the Court are issued by George Allen & Unwin Ltd., London.

CHAPTERS IX and X.—Sir Austen Chamberlain's *Peace in Our Time* (London, 1928) reproduces his most important speeches and addresses. A British point of view is also expounded in Professor J. L. Brierly's articles in the B.Y.B. of I.L., e.g. *Matters of Domestic Jurisdiction* (1925), *The General Act of Geneva, 1928* (1930), *The Future of Codification* (1931). *International Change and International Peace*, by Sir John Fischer Williams (London, 1932), deals with fundamental problems. P. J. Baker, *The Geneva Protocol* (London, 1925), and D. H. Miller, *The Geneva Protocol* (New York, 1925), stress points of view. Bruce Williams's *State Security and the League of Nations* (Baltimore, 1927) is an historical account. The classical Memoranda, (1) Introduction by M. Beneš, (2) Arbitration and Conciliation by M. Holsti, (3) Security Questions by M. Politis, (4) Articles X, XI, and XVI of the Covenant by M. Rutgers, are in the Annexes to the Minutes of the Second Session of the Committee of Arbitration and Security (C.165. M.50. 1928. IX), and are also issued as a separate publication.

CHAPTER XI.—There is an excellent summary and analysis of the whole subject in T. P. Conwell-Evans's *The League Council in Action* (London, 1929).

CHAPTER XII.—The best short surveys to 1932 are those of Denys P. Myers, *World Disarmament* (World Peace Foundation, 1932), Stephen Heald, *Memorandum on the Progress of Disarmament, 1919-1932* (Information Dept. of the R.I.I.A. London, 1932). and *Disarmament and Security since Locarno*, by J. W. Wheeler-Bennett (London, 1932). The Minutes of the Preparatory Commission and of the Commissions of the Disarmament Conference give much information which has not yet been digested in books or articles. Of earlier books those of P. J. Noel Baker, *Disarmament* (London, 1926), and S. de Madariaga, *Disarmament* (London,

1929), are by close observers. For the project of an International Police Force, see the note on p. 198. See also note on p. 191.

CHAPTER XIII.—There is a vast literature on Minorities, a bibliography of which is given in Jacob Robinson, *Das Minoritäten Problem und seine Literatur*. (*Institut für ausländisches öffentliches Recht und Völkerrecht*, Heft 6, 1928.) A recent admirable survey is Julius Stone, *International Guarantees of Minority Rights* (London, 1932). An older book which retains value is L. P. Mair, *The Protection of Minorities* (London, 1928). The League of Nations has issued two collections of indispensable documents. *Protection of Linguistic, Racial, and Religious Minorities by the League of Nations*; (a) Provisions contained in the various international instruments at present in force (C.L.110. 1927. I Annexe). (b) Resolutions and Extracts from the Minutes of the Council, Resolutions and Reports adopted by the Assembly (C.8. M.5. 1931. I).

CHAPTER XIV.—An expert analysis of the causes of the depression with proposed remedies is: Sir Arthur Salter, *Recovery* (London, 1932). This should be supplemented by the use of two League publications: (1) *The Course and Phases of the World Economic Depression* (A.22. 1931. IIa). (2) *World Economic Survey: 1931–32*. For the Brussels Conference, see *Report of the International Conference* (Brussels, 1920). For the World Economic Conference, *Final Report of the World Economic Conference* (C.E.1.44. 1927). A useful commentary is *The Economic Consequences of the League* (ed. by Sir Arthur Salter) (London, 1927). The reconstruction of Austria and Hungary is dealt with in two League publications (which include essential documents): (1) *The Financial Reconstruction of Austria* (C.568. M.232. 1926. II). (2) *The Financial Reconstruction of Hungary* (C.583. M.221. 1926. II).

CHAPTER XV.—The outstanding work of reference on the I.L.O. is the book issued by the Organization itself: *The International Labour Organization: the First Decade* (London, George Allen & Unwin Ltd., 1931). The Annual Reports of the Director give valuable surveys of the Organization's work.

CHAPTER XVI.—No general study of the work of the Transit Organization is available. The scope of Slavko Raikovitch's, *Le régime international des voies ferrées et la Société des Nations* (Paris, 1925) is indicated by its title. Essential documents are the Minutes of the Advisory and Technical Committee and of the successive General Conferences.

CHAPTER XVII.—(a) *Opium*. Many books on this subject have been written, but they vary greatly in value. The following are useful, though all need to be supplemented: J. P. Gavit, *Opium* (New York, 1927). Michel Liais, *La question des stupéfiants manufacturés et l'œuvre de la Société des Nations* (Paris, 1928). W. W. Willoughby, *Opium as an International Problem* (Baltimore, 1925). Justin Zender, *La question de l'opium* (Geneva, 1929). The most useful official documents are the Reports to the Council of the Advisory Committee on the Traffic in Opium and the Minutes of the same body.

(b) *Protection of Women and Children*. H. Wilson Harris, *Human Merchandise* (London, 1928). The Minutes and Reports by the Special Committee of Experts (C.52. M.52. 1927. IV).

(c) *Slavery*. Lady Simon, *Slavery* (London, 1929). Minutes of the Temporary Slavery Commission (A.18. 1924. VI, and C.426 M.157. 1925. VI). Annual Reports by the Council on the application of the Slavery Convention. Report of the International Commission of Enquiry in Liberia (C.658. M.272. 1930. VI). Report of the Committee of Experts (C.618. 1932. VI).

(d) *Health*. C. W. Hutt, *International Hygiene* (London, 1927). Annual Reports of the Health Organization.

CHAPTER XVIII.—There is a large literature on Mandates, from which the following are selected: Freda White, *Mandates* (London, 1926), a useful introduction to the subject, which should be supplemented by E. van Maanen-Helmer, *The Mandate System* (London, 1929). D. F. W. van Rees, *Les mandats internationaux* (Paris, 1927-28), an indispensable study by the Vice-President of the Commission. Quincy Wright, *Mandates under the League of Nations* (Chicago, 1930). A useful survey of the working of the Mandate System in Africa will be found in R. L. Buell, *The Native Problem in Africa* (New York, 1928). Indispensable documents are the Minutes of the Permanent Mandates Commission and its Reports to the Council.

CHAPTER XIX.—There is a frank and impartial account by an official of the Institute, Margarete Rothbarth, *Geistige Zusammenarbeit im Rohmen des Völkerbundes* (Münster, 1931). See also H. Galabert, *La Commission de Coopération intellectuelle de la Société des Nations* (Toulouse, 1931). Professor Zimmern's report reprinted as *Learning and Leadership* (Oxford, 1928) gives the best discussion of the principles of the subject. There is an admirably succinct description of much of the work of the Committee in the Annexes to the letter of the Chairman, Professor Gilbert Murray, of January 19, 1932, to the Disarmament Conference (Conf.D.98.IX. Disarmament, 1932. IX.24).



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